

PART of the

Abbot de VERTOT's

DISSERTATION

Upon the Origine of the

SALICK LAW,

AND,

The QUESTION,

*Whether it be precisely in pursuance of  
ARTICLE LXII. Paragraph VI. That  
the Daughters of the Kings of France are  
excluded from the Succession to the Crown,*

EXAMINED.

IN FOUR PARTS.

The LAST containing a full Demonstration of King  
EDWARD's Right to the Crown of France, both by the  
very SALICK LAW, and by *Précédents*.


By PETER RIVAL, One of His Majesty's  
Chaplains of the French Chapel at St. James's.

Done into English from the French, by a Gentleman.

DO NOT BELIEVE TOO EASILY. [Law of the A-  
cademy degl'Intronati, at Sienna.]

L O N D O N,

Printed for F. FAYRAM, at the South Entrance  
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## Advertisement.

THE Author, having perus'd these Sheets after they were printed off, has found the following Mistakes, viz. Page 51. Line 27. (which is also in the *French*) is to be corrected thus :

Lewis and Carloman, *Eldest Brothers of Charles the Simple, and Sons of Lewis le Begue died without Off-spring, &c.*

Page 57. in the Note, Line antepenult. for *in any other*, read *in any Author*.







To his Royal Highness,

G E O R G E

Prince of *Wales*, &c.

*May it please Your ROYAL HIGHNESS,*

**W**ERE there any thing like  
 Satyr in this Examination  
 of the Dissertation pub-  
 lish'd by a celebrated Author, upon  
 the *Original of the Salick Law*, I durst  
 not have had the Confidence to place  
 so Great and Awful a Name, as that of  
 Your *Royal Highness* at the Head of it:  
 I am sensible, Sir, how distasteful a  
 Satyrical Piece would be to a Prince, as  
 much above the Vulgar in the Refine-  
 ment of his Mind, and Greatness of  
 Soul, as in the Splendor and Degree of  
 his Birth and Rank.

I willingly applaud the Abbot de Vertot's Notions, when they appear to me Just; and 'tis not without due Care not to infringe the Rules of Civility, that I use the Right of Criticizing upon what I think faulty in his *Dissertation*. I have likewise taken Occasion to animadvert upon such Errors and Mistakes as others have fall'n into; and shewn by real Proofs how cautious we ought to be in reading even the most Reputable Authors, and most deserving the Esteem of the Publick.

These sorts of Discussions, *Sir*, are useful in their kind; they lead to that Exactness which ought so carefully to be sought after, and help to unravel History; at least, they teach us discreetly to suspend our Judgments in Matters whereof there is no certainty. Such Designs cannot displease Your *R. H.* who loves and encourages the Noble Arts and Sciences, and whatever else belongs to the Empire of Learning.

Besides this, *Sir*, there is an Article in it self very material, and which cannot

*The Epistle Dedictory.*

v

cannot but nearly concern Your Royal Highness, relating to the Pretensions of *Edward III.* to the Crown of *France.* The Dissertation having brought me under a Necessity of speaking of them, I thought it my Duty to set them in a proper Light for two Reasons: *First*, Because most People have a wrong Notion of them, believing they are inconsistent with the *Salick Law*; whereas, 'tis upon the very Terms of that Law they are grounded. *Secondly*, Because Father *Daniel*, a famous Jesuit, hath represented them in his History of *France* as meerly Chimerical; whereas, never any Pretensions were more substantial, nor better supported by Law.

One cannot, *Sir*, without wonder, call to Mind, after how glorious and triumphant a manner, those Pretensions were maintain'd by that King, of immortal Memory, seconded by the brave Prince of *Wales*, one of those Hero's the World will ever deservedly boast of. But what Prince *Edward* then did, under the auspicious Conduct, and after the



the Steps of his Father, Prince *GEORGE* would do now under the auspicious Conduct and after the Steps of Our Great Monarch, were it necessary to support His Sacred Majesty's Right by force of Arms. Of this, the intrepid and well-temper'd Valour by which Our Prince of *Wales* has so early signaliz'd Himself in the Field of Battel, is a convincing Proof.

But what am I doing? I'm sensible, the Panegyrick my Heart would lead me into, is exceedingly above my Abilities; and tho' my Pen were capable of touching upon so delicate a Subject, the fear of offending that Vertue, which of all others is the most amiable and charming, would restrain me. Let me then conclude, by beseeching Your *R. H.* to pardon the Liberty I have taken in this Dedication, and vouchsafe to accept it as a Zeal-Offering, and a Proof of my being, with the most profound Respect,

S I R,

*Your ROYAL HIGHNESS's most Humble,  
most Obedient, and most Faithful Servant,*

*P. R I V A L.*



## Heads of the FIRST PART.

**I.** *THE Occasion and Design of the Work.*  
**II.** *M. de Vertot's Complaints against du Haillan.* **III.** *Some Discussions of the Salick Law.* **IV.** *King Edward the Third's Pretensions to the Crown of France, pursuant to the Salick Law, the Original Truth of which is acknowledg'd.* **V.** *Du Haillan defended from the undeserved Censure of M. de Vertot and Father Daniel.* **VI.** *Du Haillan's partiality to Philip of Valois, against Edward III. exposed. From Page I. to 35.*



## Heads of the SECOND PART.

**I.** *THE three Instances of the Salick Law produced by M. de Vertot in the first Race, taken from the Daughters of Childebert, Cherebert and Gontran, revised.* **II.** *Many Particulars clear'd up, and the Force and Weakness of the Argument drawn from them examined.* **III.** *The Author returns to the Salick Law.* **IV.** *Du Haillan's Defence completed, and his Agreement with M. de Vertot and Father Daniel, shewn. From Page 36, to 69.*

Heads

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Heads of the THIRD PART.

I. **T**HE two first Examples of the Salick Law in the Third Line, in Philip the Tall and his Brother Charles the Handsome, considered. II. Many Circumstances of their History explained. From Page 70. to 100.

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Heads of the FOURTH PART.

I. **T**HE third Instance of the Salick Law in the Third Line, in favour of Philip de Valois, notwithstanding the Right of the King of England, examin'd. II. The Validity of the said King's Right shewn from the very Terms of the Salick Law. This may be called properly a Plea for Edward the Third. III. M. de Vertot's Reflections upon a Passage quoted by him out of Froissart, and which closes his Dissertation, examin'd. From Page 101 to 134.

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**I**N the whole Book, either in tracing the Author of the Dissertation, or making some Occasional Digressions, a great number of Facts are discussed, many Errors which Writers are fall'n into are rectified, and it is shewn with how much Caution the best Authors ought to be read; which is the Reason of placing in the Title-Page the fifth Fundamental Law of the Academy degl' Intronaui, at Sienna, Non temerè credere.





PART of the  
**Abbot de VERTOT's**  
**DISSERTATION**

UPON THE  
 Origine of the SALICK LAWS;

AND,

The Question, Whether it be precisely in  
 pursuance of the LXII. Article, Para-  
 graph VI. *That the Daughters of the Kings*  
*of France are excluded from the Succession to*  
*the Crown, EXAMINED.*

PART I.



Friend of mine, who is equally  
 well acquainted with the most re-  
 mote Antiquity, and the Modern  
 State of Learning, inform'd me  
 in a Discourse we happen'd to  
 have about the *Salick Law*, that  
 there was a Dissertation of the Abbot *de Vertot's*  
 upon that Subject, in the Fourth Volume of the  
 B *Memoirs*

*Memoirs of Literature, taken from the Registers of the Royal Academy of Inscriptions, &c.* I was extremely pleas'd with the Discovery, being persuaded, an Author so much, and so deservedly esteem'd, would give me a very great Insight into a Law, that makes so considerable a Figure amongst the Fundamental Laws of France. I perus'd it with great Eagerness; and a few days after let my \* Friend know, that the reading of it had given me a double Pleasure; one was, that I had learn'd therein several curious Matters; the other, that I had been confirm'd in the Notion that I had already conceiv'd of the *Sabbick Law*. I said besides, that by the way, I had made some mental Observations thereupon. No sooner had I dropt those Words, but a third Person standing by, desir'd I would put my Remarks in Writing, and publish them, making me this Compliment, that not doubting of their being good, he thought they would contribute to make the Dissertation compleat; and assur'd me, that *M. de Vertot* was not of a Temper to be offended at it. However, I had much ado to resolve; and now declare, that 'tis not without Uneasiness I take the Pen in hand.

Altho' my chief Design be, to examine certain Passages of the Dissertation, I shall not absolutely confine my self to that, but go upon other Matters, as they come in my way, or I may think them worthy the trouble of turning out of it. I do not undertake an outright Course from one End to the other; but would imitate

\* The Reverend Mr. *Masson*, a very Learned Antiquary, whom several celebrated Authors have much commended; amongst others, the illustrious Baron of *Spanheim*.

imitate those who take short turns backwards and forwards, sometimes turning to one side, sometimes to the other, just as Occasions and Objects present themselves. A Reader may easily and without any Fatigue, *step from Paris to Peru, from Japan to Rome.* The Business is to lead him well: And this I shall endeavour.

I do not enter upon the Dissertation, till towards the Middle of it, at Page 339. of the 4th Volume of the *Memoirs*, &c. printed at *Amsterdam* in 1719. The whole contains no more than 22 Pages: So that this Examination will run only upon the 10 or 11 last. On occasion of the LXII. Chapter of the *Salick Law*, the Author mentions the Opinion of *du Haillan*, and says, “ That Historian seems to intimate, the Article  
“ concerning the *Salick Law*, was intruded into  
“ the Chapter *de Alodis* by *Philip* the Tall Earl  
“ of *Poitou*; or at least, that he was the first  
“ who made use of it, to exclude his Niece  
“ the Daughter of *Lewis Hutin*, from the Succession to the Crown. Let us see, after what  
“ manner *du Haillan* doth relate a Fact of this  
“ importance, lest I should be suspected of imposing upon him.

“ The most rigid Criticks upon our History, are of opinion, (says this audacious Writer,) that this Article of the *Salick Law*, was not made by King *Pharamond*, but invented by *Philip* the Tall King of *France*, in order to defeat, according to the ancient Custom above-mentioned, the Succession of his Niece, Daughter of *Lewis Hutin*, to the Kingdom; who being sollicitured by the Earl of *Burgundy* her Uncle by the Mother’s side, pretended to it: And *Philip*, to give his own Claim the



“ greater Authority, and this Law receiv'd by  
 “ the French more Credit, (*as one must always*  
 “ *cover that which hath not been done, or ought not*  
 “ *to be done, with some old Law, and some Name of*  
 “ *Authority,*) made the People of France, who  
 “ knew nothing of Letters, Histories or Titles  
 “ of the Antiquity of the *Francks*, believe, that  
 “ the Law which deprives the Daughters from  
 “ coming to the Crown of this Kingdom, was  
 “ made by *Pharamond*. Such is the Opinion of  
 “ this Historian.

It must be confes'd, Mr. de Vertot is not the  
 only one who complains of *du Haillan*: Many  
 others have done the same before him. Father  
*Daniel*, in the Beginning of his Dissertation upon  
 the Antiquity and first Author of the *Salick*  
*Law*, says, *He was always surprized at the Liberty,*  
*not to call it Rashness, with which du Haillan speaks*  
*of that Law.* However, I will venture to affirm,  
 both of them use that Historian with too much  
 Severity: Which is the more to be wonder'd at,  
 because for the main they agree with him, in  
 the most important and essential Points, as I  
 believe I shall make appear.

That which seems, in my Opinion, to be the  
 most ticklish and remarkable, in the Passage of  
*du Haillan*, is, not only the Forgery imputed to  
*Philip the Tall*; but chiefly that Parenthesis (*as*  
*one must always cover that which hath not been done,*  
*or ought not to be done, with some old Law, and some*  
*Name of Authority.*) This is not in his Book,  
 entituled, *Etat des Affaires de France*, where the  
 rest of the Passage is originally to be found,  
 and from whence *du Haillan* did afterwards  
 engraft it into his History of that Kingdom:  
 Neither is it in the First Edition of the History,  
 at

at least, not in the Edition of 1577, in Two Volumes in 8vo, which I make use of on this occasion: But I own, I have seen it in another of 1585, and in the last Edition of 1615. Nevertheless, if that Place be compar'd with others of the same Author, one shall easily discover, the bold Part quoted in that Passage does not express his own Sentiments; but the too forward Opinion of those he calls *the most rigid Critics upon the History of France*. He agrees exactly with them in one Part of their Censure; but dissents entirely from them in that which most sensibly affects *Philip* the Tall and his Successors: I mean, the Interpolation of the Chapter *de Alodis*, and the two capital Points hinted at in the Parenthesis: One is, that before the time of *Philip* the Tall, the Daughters of the Kings of *France* had never been excluded from the Succession; for this must have been the Meaning of those Words, (*that which hath not been done* :) The other is, that *Philip* pought not to have excluded his Niece, the Daughter of *Lewis Hutin*; for the following Words (*or ought not to be done*) cannot be taken in any other sense. It will appear most evidently, the Opinion of *du Hailan* is diametrically opposite to both those Hints; so that we are to look upon them no otherwise than a kind of Objections he brings in, as having been made by others.

'Tis true, he maintain'd, that *Pharamond* was not the Author of the *Salick Law*, for limiting the Succession to the Crown of *France*; and he offers to prove it this way, That *Pharamond* never set foot in the *Gauls*, but kept continually on t'other side of the *Rhine*. If this be matter of fact, 'tis a convincing Proof, *Pharamond* did not

not make that Law with a Design namely and purposely to regulate the Succession of the Crown of *France*. No doubt, but he did not make Laws for a Kingdom he was not in possession of. It would have favour'd too much of Rashness and Folly, had he made such Regulations beforehand, unless he had been endow'd in that respect with the Gift of Prophecy. But we need only suppose, he had a mind to settle the Succession, with regard to his Dominions, of what Extent soever they were then, or might be thereafter. Allowing this, it will be very reasonable to say, that his Successors having founded a Monarchy in the *Gauls*, it happened he had determin'd the Succession there, by determining in general that of his Estates, whilst they were all on the other side of the *Rhine*; as the Kings of *France* at this day, with all the reason in the World maintain the Agreement between *Francis I.* and Pope *Leo X.* ought to be of force in all the Countries since acquir'd by the Crown, as well as in those it was possess'd of at that time. See *Aubery upon the Regale, Ch. 12. p. 51. and the 4th Plea of M. Patru.*

But whatever *du Haillan's* Arguments may be, *M. de Vertot* does not oppose it; nor does he care to search into the Bottom of the matter. *Whether this Law*, says he, immediately after he has cited the Passage of the old Historian, *was given by Pharamond or Clovis, is of no Concern.*

He insists only, "That the *French* have nothing more ancient, nor better establi'd, than the Existence and Practice of this Collection of Salick Laws; and above all, that there is no Manuscript nor printed Copy, which hath not the 62<sup>d</sup> Article, whereby the Daugh-



ters are excluded from the Succession: A Proof that it has not been foisted in." This Argument would certainly be unanswerable, if it could be made out, that all the Manuscripts have not been written since the time of Lewis X. For those that are not of an older date, can be of no service to clear *Philip* the Tall from the Interpolation laid to his charge. I could have wish'd, M. *de Vertot* had explained that Particular. M. *Eccard*, who succeeded the famous Baron *de Leibnitz*, as Library-keeper to the King at *Hanover*, has lately printed a Collection of the *Salick* and *Riparian* Laws, wherein he has publish'd a Copy of the *Salick* Laws, which he calls the \* *Wolffenbuttel Copy*, and asserts to be so ancient, that by all the tokens, it must have been made under the Reign of King *Pepin* Father of *Charlemagne*. In this Copy, the Article *de Alodis* is the 61<sup>st</sup>, and concludes with these Words, which are so hard to be understood, that M. *Eccard* does not so much as offer at any Explanation: *De terrâ verò illâ (Salicâ) quod muliere hereditas est, sed ad vero exugu frater fuerat tota permaneat.* But I don't know, for all that, whether one may not guess, that the Succession to the *Salick* Land was by these Words reserv'd for the Male Line; which would be sufficient to acquit *Philip* the Tall as to the Supposition of this Clause. But his Innocence will otherwise sufficiently appear. I shall return in another Place to this Point, and shew, *du Hailan* neither does, nor could impute any thing to him on

\* *Vetustissimum Exemplar Guelferbitanum nondum à Carolo M. mendatum, ac sub Pipino, ut omnis indicio sunt, exaratum.* Pref. l. 1.

on that score, without manifestly contradicting himself.

M. de Vertot says further, "The Monk Marculphus, who flourish'd in 660, makes express mention of that Law in his *Formulary*, where he introduces a Father speaking thus to his Daughter; *My dear Child, Our Ancestors establish'd a hard and inhuman Law, which does not allow the Sisters to share with their Brethren in their Fathers and Mothers Inheritance.*" It is easy to perceive, the Author's Design in quoting this Passage, was, to prove, that what we now call the *Salick Law*, bore the Name of a Law, when this *Formula*, which must be older than Marculphus, was written. He makes him live in 660, following therein the Conjecture of M. de Bignon; whereas others place him by a whole Age nearer our Times. But this is not what I insist upon: I stick to Two Observations: The first is, that the Word in the *Formula* is *Custom*, and not *Law*; the second, that M. de Vertot is not consistent with himself: For in the Dissertation before that which is now under Examination, and which is, upon the Origine of the *French*, he does not make use of the Word *Law*, but *Custom*. "My dear Child, (says a Father to his Daughter in the same *Formulary*,) there is amongst us an ancient and barbarous *Custom*, which excludes the Daughters from inheriting the Father's Estate with their Brethren. Page 322." I pass by the Addition he has made in the second Translation, by saying, their *Fathers and Mothers* Estate; whereas mention is there made only of the Paternal Inheritance. This Addition, which, I doubt not, slipped from his Pen, is of no consequence: But it is quite otherwise

herwise with the Alteration of the Word *Cu-  
som* into that of *Law*, in the Design that is pro-  
posed, when the latter is brought in. Here  
follows the Original as I found it in the first E-  
dition which M. *Ferom Bignon*, since Advocate-  
General in the Parliament of *Paris* publish'd at  
the Age of \* 23 Years, with Learned Notes of  
his own.

Lib. 2. Form. 12. Ut filia cum fratribus  
in paterno succedat Alode.

Dulcissimæ filiaæ meæ, illi, ille; diuturna sed  
impia inter nos *Consuetudo* tenetur ut de terrâ  
paternâ sorores cum fratribus portionem non  
habeant. Sed ego perpendens hanc impieta-  
tem, sicut mihi à Domino æqualiter donati  
estis filii, ita & à me sitis æqualiter diligendi,  
& de rebus post meum discessum æqualiter  
gratulemini; ideoque per hanc Epistolam, te  
dulcissima filia mea, contra germanos tuos fili-  
os meos illos, in omni hæreditate meâ æqualem  
& legitimam esse constituo hæredem, ut tam  
de Alode paternâ quàm de comparato, vel  
mancipiis aut præsidio nostro vel quodcumque  
morientes reliquerimus, æqua lance cum filiis  
meis germanis tuis dividere vel exæquare de-  
beas, & in nullo penitus portionem, mino-  
rem quam ipsi non accipias, sed omnia inter  
vos

\* He had acquir'd a great Character many Years be-  
fore by several Works all very much valu'd. At the Age  
of Ten, (which is prodigious) he publish'd a Descripti-  
on of the Holy Land; at Thirteen, a Treatise of the  
*Roman* Antiquities; another, of Law, and a Third, up-  
on the manner of electing the Pope. These extraordi-  
nary Performances got him the Name of the Old Young  
Man.



“ vos vel dividere vel exæquare æqualiter debetis.” Si quis vero & quod sequitur, p. 126.

In this *Formula* we find the Word *Consuetudo*, upon which M. Bignon says in his Notes, that the \* Author very rightly gives the Name of *Custom* to the *Salick*, *Ribuarian*, and such like Laws, having been long receiv'd by Custom before they were reduc'd into Writing. After that, he quotes the 62d Article of the *Salick Law*. So this *Formula* may serve to prove, that when it was first made, the *Salick Law* was not yet put into Writing. The most advantageous Inference that can be drawn from hence for the *Salick Law*, is, that the Custom spoken of in the *Formula*, must be one of those ancient Customs of the *Franks*, which have been since reduc'd into Writing, in the Collection that goes by the Name of the *Salick Law* or *Salick Laws*.

But on the other hand, this *Formula* very much weakens the Authority of the Custom mentioned therein. One may gather from thence, that in the main it was an arbitrary Custom; and that if it was constantly practis'd, it was still at pleasure, and might be dispensed with, whenever it was thought proper: So that this Custom was not binding, except in the Case of an *Intestate*, or when the Deceased had neglected to dispose of their Estates: For otherwise, how could the Author of the *Formula* suppose, that the equal Distribution he makes of his Estate between his Sons and Daughters, could

\* *Consuetudinem vocat Leges Salicas, Ribuaras & similes moris, cum multo ante usu receptæ, quam in scriptis redactæ sint. Sic autem Leg. Salicæ Tit. 62. De terrâ verò Salicâ, &c.*

could take place against a Custom of an obligatory nature; but especially, how could he have ventur'd in a publick Instrument thus to call that Custom hard and inhuman (*impia*) if it had the Force and Authority of a Law?

This Instance seems farther subject to another great Inconvenience: For one may conclude from it, That a King of *France* might call his Daughters to the Succession, and by that means derogate from the Custom of not admitting any but the Male Line to the Crown. So that here would be a Way for evading in favour of the Princesses of *France*, *M. de Vertot's* Argument, which runs in these Words; "As for those who extend this Law to our Kings, and apply it to the Succession to the Crown, they maintain, that our original *French* Ancestors having excluded their Daughters from the Inheritance of the Salick Land, the same Law ought to comprehend the Head as well as the Members of the Commonwealth, and the Royal Family, as well as those of private Persons." May we not say, according to this way of reasoning, that as the Author of the *Formula* derogated from such a Law or Custom in the Distribution of his Estate; the Kings of *France* might also do the same with regard to their Crown, since the same Law ought not to be more binding to the Head than to the Members; nor to the Royal Family, than to those of private Persons? *M. de Vertot* says positively, that it was made equally for one and the other. If then private Persons had the liberty of infringing it, as appears by the *Formula* of *Marculphus*, had not Kings the same Right?

“ Our Author continues thus ; “ But to declare  
 “ my own particular Opinion in this place, I  
 “ should be inclin’d to think, that this Practice  
 “ of excluding the Daughters from the Succession  
 “ to the Crown, was of a longer standing  
 “ than the Institution of the Law for the Sale  
 “ lick Lands ; and even that this Custom was  
 “ common to all the barbarous Nations which over-  
 “ flow’d the Roman Empire, and establish’d  
 “ themselves there towards the End of the  
 “ Reign of Honorius ; Goths, Gepides, Alans, Van-  
 “ dals, Herules, Huns, Sclavonians ; amongst  
 “ which we shall not find any that were ruled  
 “ by Queens.

This Opinion is unquestionably the best, but  
 very far from being peculiar to M. de Vertot : Nay,  
 ’tis that which has been longest and most uni-  
 versally follow’d. The Civilian Baldus says,  
 that the \* Daughters of the Kings of France are  
 excluded from the Succession to the Crown  
 by a reasonable Custom amongst the French.

The Opinion of Pasquier is so very like that  
 of M. de Vertot, that one would imagine he had  
 only adopted it. “ If we look (says Pasquier)  
 “ a little higher into History, we shall find not  
 “ only the French, but the greatest Part of those  
 “ Nations that came out of the lower Part of Ger-  
 “ many, were fond of, and had a particular regard  
 “ for this Law above all others. — We may almost  
 “ venture to say, that it was a Law which gene-  
 “ rally obtain’d amongst the Germans, when  
 “ they invaded the Roman Empire, not to suf-  
 fer

\* — Filia Regis Francorum non succedit ex rationa-  
 bili Consuetudine Francorum. Refer. Spond. ad An. 1328.  
 §. 21.



“ fer their Crown to fall to the Distaff. *Recht de la France, L. 2. cb. 14.*

*Andrew du Chesne* has copied from *Pasquier* without quoting him however, in his Antiquities, and Enquiry into the Grandeur and Majesty of the Kings of France. *L. 3. ch. 6.*

*Belleforest* says, that *Philip de Valois* took advantage of the Customary Law of France, and confesses, that the *Salick Law* was rather mental and traditionary, than a written Law. *Grandes Annales, Tom. 2. l. 5. initio.*

*Turquet* says, it was resolved, that Prince should succeed to the Crown by virtue of and according to the *Salick Law*, as many Authors think; but rather in right of Custom observed time out of mind amongst the French. *Hist. d'Esp. L. 13. p. 562.*

*Spondeus* says, that when the Roman Law was urged in favour of *Lewis Hutin*, the Earl of *Poitou* pleaded the ancient Custom of France, which did not allow the Female Line to come to the Crown. *Ad an. 1316.*

*Mexerau* says, that then the Succession of the Male Line to the Crown was established, not by any written Law, but an inviolable Custom of the French Nation. *Abregé Tom. 2. Lewis Hutin ad finem.*

*Philip de Valois*, says *M. de Larrey* in his History of England, had the Salick Law in his favour, such a Law as it was, not written, but held by constant Tradition in favour of the Male Line, always prefer'd to the Female, which never succeeded. *Tom. 1. ad an. 1336.*

The *Salick Law*, says the anonymous Author of the Method for reading of History, is an inviolable Custom of the Monarchy of France; but

but which did not pass into a Law till the 3<sup>d</sup> Line under the Reign of *Philip* the Tall. *Tom. 2. p. 73.*

M. *Le Gendre* Canon of *Paris*, speaking of the Faction that favour'd the Pretensions of the Daughter of *Lewis Hutin* to the Throne, says, there was no Law, at least no written one, which excluded the Princesses of the Blood, and that it was only a received Custom.

I have reserved *du Haillan* for the last ; because, as I have engaged, I would make out, that notwithstanding M. *de Vertot's* Design be to censure him, yet there is no difference between them upon the Matter in question. The Dissertation undertakes to refute that Historian, calling him an Audacious Writer ; nevertheless 'tis plain, that *du Haillan's* Notions and those in the Dissertation are the very same. " It hath been, " saith he in his Book called *the State of the Affairs of France*, fol. 191. it hath been a Custom observed by the barbarous Nations, that the Daughters never succeeded to their Kingdoms.—— In the first Line of our ancient Kings the Crown of this Kingdom never devolved upon the Distaff ; not that it was owing to the *Salick Law*, which at that time was never heard of ; but to a Custom observed without Interruption amongst the Barbarous Nations, which has ever since supplied the Place of a Law." And this he repeats Word for Word, in his History of *France*, upon *Pharamond*. Vol. 1. p. 20, 21.

The Instances produced by the Author are all likewise to be found in *du Haillan*, except the First taken from the History of the *Goths*. " *Theodorick*, says M. *de Vertot*, King of the *Ostrogoths*, who settled in Italy in the

" time

" time of *Clovis* the First, his \* Brother-in-law  
 " had but one Daughter; and that Princess, af-  
 " ter the Death of the King her Father, saw  
 " his Son *Atbanarick* placed upon the Throne  
 " of the *Gots*; and altho' a Minor, he was  
 " preferr'd in the Succession to the Queen his  
 " Mother, Daughter of the King deceas'd. And  
 " the same *Atbanarick* dying whilst that Princess  
 " was yet living, *Theodatus* was acknowledged  
 " as King to her prejudice, without the least  
 " mention of the Daughter of the Great *Theo-*  
 " *dorick*.

Tho' these last Lines are true in the main, 'tis  
 certain however, that *Amalasonta* had the Title  
 of Queen given her during her Regency, and  
 even after *Theodatus* came to the Crown, tho' in  
 strictness she had no right thereto. There may  
 be two Reasons assign'd for it: The first is, that  
 in former times, when Princes or great Lords  
 had Wards or Pupils, they usually assum'd the  
 Title that belong'd to the Estates of such Pupils.  
 This is an Observation of Father *Daniel*, speak-  
 ing of *Philip* the Tall and *Charles* the Hand-  
 some; who call'd themselves Kings of *Navarre*,  
 with-

\* *Carion* and *Calvisius* in the Year 493, make *Theodorick*, *SON*  
*Brother*-in-law to *Clovis*. M. *Godenu* is in some doubt  
 about that matter in the Year 489. But when he comes  
 to the Year 526, he says, without any Scruple, that  
*Theodorick's* Wife was Daughter to *Clovis*. *Jornandes* says  
 the same: *Missaque Legatione ad Lodoic Francorum regem, filii-*  
*um ejus Audefredam sibi in matrimonio petit, quam ille gratè*  
*libenterque concessit.* De Reb. Get. 88. init. 'Tis not un-  
 likely, *Jornandes*, or some Copist, by mistake put *Clovis's*  
 Daughter instead of his Sister. For besides the Authority  
 of other old Historians, That King could not be Thirty  
 Years old when *Theodorick* married *Audefred*. 'Tis rarely  
 known, that a Man at that Age has a Daughter marriage-  
 able.



without the least Intention however, of appropriating that Kingdom to themselves, which belonged to their Niece, *Jane* Daughter of *Lewis Mutin*, whose Guardians they were. *Tom. 2. p. 439.*

The second Reason is, That anciently Kings Daughters had the Title of Queens. *Faubet* says, that the Sons of the *Merovingian* Kings were call'd Kings, and their Daughters, Queens. This Custom was a long while observ'd in *France*. " This (says *† du Chesne*) may be gather'd from a Royal Charter of the Year 1245. at the time when Madam *Constance* Daughter to *Lewis le Gros*, was married to *Raymond* Earl of *Tboulouse*. For her Husband never having assum'd an higher Title than that of Earl, that Lady caus'd her self nevertheless ordinarily to be call'd Queen *Constance*. But that Custom has been ever since out of fashion; the imaginary Title of Queen being become the Derision and Scoff of the People.

I add, that in the *Various Letters of Cassiodorus*, one may see, that || *Theodorick's* Daughter expressed her self upon *Theodatus's* Accession to the Crown, as if out of her mere Goodness she had placed it upon his Head, and allowed him only some share in the Government. That Prince, on his part, had the Complaisance, or rather

\* Of the Original of Dignities. &c. Ch. 6.

† Antiqu. and Enquiries of *France*, l. 3. ch. 6. p. 646. See also *du Haillan's* State of the Affairs of *France*. Fol. 198.

|| She told the Emperor, *Perduximus ad sceptrum virum nobilis fraternâ proximitate conjunctum, qui regiam dignitatem communi nobiscum consilii robore sustineret.* And the Senate of Rome, *Elegimus deo auspice consortem Regni nostri felicissimum Theobaldum ----- talem mecum constitui Principem.* Cass. Val.

rather the Cunning, to imitate her Stile on that occasion. Nevertheless *Procopius* introduces *Amalasonta*, when she perceiv'd her Son was near the Grave, telling *Theodatus*, That *he had a Right by Birth to Theodorick's Kingdom*; and also giving him to understand, that she was so far from entertaining the Thoughts of depriving him of it, that whatever Rigour she might have shewn on his account, was with a view of preventing him from hurting his Natural Right by a Conduct disagreeable to the *Ostrogothick Nation*. But that Princess not having a heart to lay down a Regency she had executed for eight Years with so much Credit and Success, desir'd he would by Oath promise and confirm to her the same absolute Power she had before, altho' he was to enjoy the Title of King. As Passions are blinding, she fancied *Theodatus*, neither endow'd with the Qualifications nor Inclinations of a King, would be glad to throw the Burthen of the Government upon her; so that she alone would have the whole Management of the State. Perhaps she fed her self with those vain Hopes, by the Example of *Pulcheria*, who not only governed the Empire during the Minority of her Brother *Theodosius* the Younger; but even all his Life-time, which was near fifty Years. *Theodatus* promised and swore whatever *Amalasonta* required of her; and then leaving her to flatter her Ambition and Vanity, suffer'd her to write in such terms to *Justinian* and the *Roman Senate*, as she thought proper, and would do her most Honour. Nay, he out-did her; but reserv'd to himself nevertheless a fit Occasion, to let her know how greatly she was deceived in fancying she could be satisfied with the bare Title of King;

King; which afterwards he did, as I shall have occasion to relate in an Addition I design to this Piece, and which will contain several Remarks upon the History of *Amalasonta*, too long to be inserted here, without running into an unsizable Digression.

To return to the Dissertation: The Printer has been mistaken in putting twice the Name of *Athalarick* for *Athalarick*. That Error was first made in the *Paris* Edition, and then left uncorrected in that of *Amsterdam*. One might imagine, the Person concern'd was *Athalarick*, that famous *Ostrogothick* King, a great Persecutor of the Christians, who tried Masteries so boldly with the Emperor *Valens*; and who at length being stript of his Dominions by other *Goths*, fled to *Constantinople*, where he soon after died, delighted with the kind Reception he met with from the Great *Theodosius*: All which happened near an Age and half before the Birth of *Athalarick* *Amalasonta's* Son. Mistakes that go no further than disfiguring and maiming Names, are a Trifle in comparison of those which may give occasion to take one Person or a Town for another.

The Instance of *Athalarick* is unquestionably of great force to make out, that the Nations which were called *Barbarous*, did not admit the Daughters to the Royalty. *Pasquier*, as well as *M. de Vertot*, makes use of it to that purpose. “ The *Ostrogoths* (says he, in the Chapter of his Enquiries quoted by me) reigning in *Italy* never receiv'd the Female Sex to the Succession of the Crown; but chose rather to be ruled by a Child than a Woman; so that the Son debarr'd the Mother. A thing easily



“ to be concluded from the following Exam-  
 “ ple: For Theodorick King of the Ostrogoths,  
 “ dying, left Amalasonta, an only Daughter,  
 “ who had an only Son, named Athalarick, a  
 “ Youth of no more than Ten Years old; to  
 “ whom the Kingdom devolv'd, and not to his  
 “ Mother Amalasonta. Also after Athalarick's  
 “ Death, the Crown pass'd to Theodatus without  
 “ any Interruption from Amalasonta; which she  
 “ would not tamely have suffer'd, if the Law  
 “ of the Countrey had been on her side, being  
 “ extremely belov'd and favour'd by her Sub-  
 “ jects, upon account of her Father's Memory.”  
 p. 229. Du Chesne has copied this Passage from  
 Pasquier Word for Word, p. 640.

As for du Haillan, he does not produce this  
 Instance: But I am very much mistaken, if his  
 Silence be without Design. He mentions Theo-  
 dorick, whom he calls Thierry, Amalasonta and  
 Theodatus, in the 79th and 80th Pages of the First  
 Volume of this History; but says nothing in  
 relation to the Right of Succession in the King-  
 dom of the Ostrogoths in Italy. Only in the Be-  
 ginning of the 79th Page he relates, that Thierry  
 left Athalarick, his Grandson, Son of Amalasonta  
 and Eutbarick, for his Successors. Now the Ex-  
 clusion of that Princess might have furnished  
 him with a strong Proof of what he advanc'd,  
 That it was the Custom of the Barbarous Nati-  
 ons never to admit the Daughters to the Crowns  
 of their Kingdoms. What then could be the rea-  
 son that he was contented with laying down  
 such a Proposition, without any sort of Proof to  
 support it, when he had so good a one at hand?  
 I cannot help thinking, it was in order the  
 better to serve the turn of the Kings of France

against the Pretensions of the Kings of England, since the Reign of \* *Edward* the Third. In my Opinion, an *Englishman* would have much more reason to call him a dissembling partial Writer, than *M. de Vertot* had to say he was a bold one.

'Tis true, the Instance of *Amalasonta* proves the Exclusion of the Daughters amongst the *Goths*; but the Advantage the *French* draw from thence in favour of their *Salick Law* is visibly clogg'd with a very great Prejudice; which is, that the Succession of *Atbalarick* and *Theodatus*, also prove that the Exclusion of the Daughters amongst the *Goths* did not take in that of their Sons. This is exactly what King *Edward* insisted upon. " That young Prince (says *M. de Vertot*) claimed the Crown of *France* in right of his Mother. The *Englishman* did not directly attack the *Salick Law*, nor that ancient Custom of not admitting to the Crown any other than the Male Issue of the Reigning Family; but suppos'd, that being himself a Male, neither the Exclusion of the Princesses his Mother, nor the very Words of the *Salick Law* could take away his Right.

The Author states *Edward's* Pretension justly enough. All judicious Writers do the same: 'Tis very proper and material to justify it. *Boadinus* says, That *Edward* maintained, the Crown of

\* Where were *M. de Vallemont's* Thoughts, when he said, that *Edward* the Second pretended to succeed *Charles* the Handsome? One would have guess'd, he meant *Edward* the Third. But by what follows, he shews, that he intended to speak of *Edward* the Second: For after having said, *Edward* pretended to succeed *Charles* the Handsome, he adds, *whose Sister he had married*.

France belonged to him, by virtue of the Salick Law well explain'd; because altho' he was son of Isabella Sister to Charles the Handsome, he was nevertheless the next Male Kindred to that King. *De Reipub. lib. 6. cap. 5.*

"Edward (says du Haillan) building upon the Words of the Salick Law, which say, *No Female shall succeed, the next Male shall succeed*, thought he had caught Philip in a Noose; and said, the Law urged by the said Philip made for him; for it directed, that the next Male shall succeed; and thus affirm'd, he was the next Male, as Nephew to Charles the Handsome. *State of the Affairs of France, Vol. 196.*

"Edward (says Puffendorf) pleaded, that notwithstanding his Mother was excluded from the Crown on the account of her Sex, yet that could not be prejudicial to him. *Introd. into Hist. Ch. 4.*

"Edward (says Mezerai) readily agreed, that the Daughters could not come to the Crown, because of the Imbecillity of the Sex; nor did he demand it for his Mother; but maintain'd, the Sons born of the Daughters not having that defect, were not incapable; and therefore he ought to be preferr'd, as being a Male, and Grandson of Philip the Handsome, to Philip de Valois, who was but Nephew to the said Philip the Handsom.

Both Parties (says Father Daniel) agreed about the Salick Law, (*pray observe that Express-*) "or the inviolable Custom of the Nation, that Women could not succeed to the Crown; and for that reason the Queen of England, altho' Sister of the last King, could have no "Pre-



" Pretensions to it : But the *English* Lawyers in-  
 " sisted, that the Person next of Kin, free from  
 " that Defect of the Sex, had by Proximity of  
 " Blood a right to succeed ; and it was upon  
 " that Title *Edward* grounded his Claim, and  
 " thought to exclude *Philip*." I desir'd these  
 Words might be taken notice of, *Both Parties*  
*greed about the Salick Law* ; because after read-  
 ing them, one would wonder how *Father Da-*  
*niel* could say as he does in his Dissertation upon  
 the Antiquity and Author of the *Salick Law* ;  
*If the English had not been convinced of the An-*  
*quity of that Law, they would not have failed*  
*have attack'd more vigorously than they did, the*  
*Principle upon which Philip de Valois's Title was*  
*grounded.* But to what purpose should they have  
 attack'd a Law about which both *Edward* and  
*Philip* were agreed ; especially since without the  
 Foundation of that Law neither of these two  
 Princes could have any Pretensions to the  
 Crown ? It was the fundamental Principle  
 both ; and surely the *English* took care not  
 to attack it, since that would have been the way  
 to destroy their King's Pretensions. *Father Dani-*  
*el* Expresses supposes, that in general they did  
 tack it ; but he brings no Proof ; nor could he  
 produce any, unless the *English* were turned Foo-  
 or had a mind themselves to shew that *Edward*  
 had no right to the Crown of *France*. This  
 shall shew more plainly hereafter. I return  
 my Quotations.

*M. le Gendre* relates, that *Edward* said, " e  
 " *Salick Law*, by declaring the Females unca-  
 " ble of inheriting the Crown, had not ex-  
 " ded their Sons ; and that their Sons ought  
 " succeed by Representation.

To these I shall join three *English* Historians. "According to the Laws of *France*, the Crown was to descend to the Issue Male, and no Woman could inherit the Crown. But King *Edward*, in regard that he was a Male, tho' the Descent of the Males was interrupted by a Female, (*viz.* Queen *Isabel* his Mother) pretended, that in right the Crown of *France* was his. *Martin's Hist. of England*, Edw. III.

p. 107.

"Tho' King *Edward* himself (says Mr. *Tyrrel*) acknowledg'd the force of the *Salick Law*, whereby the Infant-Daughter of the said *Charles* was excluded; yet the King insisted, that tho' that Law debarr'd Females from succeeding to that Crown; yet it did not exclude the Male Heirs that descended from them. Wherefore he claimed it as next Heir-Male to his Uncle. *Hist. of England*, T. 3.

p. 351.

"Notwithstanding (says Mr. *Echard*) *Edward* acknowledg'd the *Salick Law*, which excludes Female Inheritances; yet maintained this Point, That the Sons of the Daughters having no such Imbecillity of Sex, were not unpable; and that the Peers of *France* ought to prefer him, who was a Male, and Grandchild to King *Philip* the Handsome, to *Philip of Valois*, whom they had advanced, tho' he was but a Nephew. *Hist. of Eng.* xiv Cent. an.

1328. Vol. I. p. 342.

Lastly, This is what *Edward* himself explained very well through the awkward Stile of his Secretaries, in a Letter to the Pope, related by *Walsingham*. He agreed, that by a Law ever observed in *France*, Women were incapable of suc-

succeeding to the Crown, because of the Weakness of their Sex ; but insisted, that the same Reason which proved the Exclusion of the Mother, could not comprehend that of their Sons ; and consequently the Succession belonged to the next Male Heir by virtue of the same Law. Upon this Foundation he claimed the Crown of *France*, as being the next Male Heir of *Charles* the Handsome, amongst all those who descended, as *Charles* did from *Philip* the Handsome. *Wals. Hist. Ang. ad ann. 1336. p. 137.*

It appears from thence, not only that *Edward* did not dispute the *Salick Law*, inasmuch as it personally excludes the Daughters ; but even that it was equally his Interest with *Philip de Valois* that it should be look'd upon as an irrevocable and fundamental Law of the Kingdom : For if it were not so, both would have been out of the Question ; they would have had no manner of Pretension to the Crown, since there were actually seven Daughters of the three last Kings *Lewis Hutin*, *Philip* the Tall, and *Charles* the Handsome. But this Principle, common to *Edward* and *Philip*, That the Daughters of *France* are incapable of succeeding, being once agreed upon the whole Dispute was reduced to this Question, Whether the *Salick Law*, or if you please, the ancient Custom, which excludes the Princesses from the Succession to the Crown, doth also exclude their Sons ; so that the Sons must be all laid aside with their Mothers, in order to come to the next of kin to the last King, from Male to Male. *Philip* would have it thus, *Edward* quite the contrary. To explain, the Examples of *Athalarick* and *Theodatus* amongst the *Goths*, formed a strong Prepossession in his favour ; there having never been any



Instance against him in the *French Monarchy* in a Case like his. I shall be oblig'd to resume this Article in the latter Part of these Remarks.

This induces me to think, that *du Haillan*, more artful and crafty than those who have alledg'd the History of the *Gots* upon the Subject of excluding the Daughters, has said as little as he could of it; because he saw of what disadvantage it would be to the Pretensions of the Kings of *France* since *Charles* the Handsome, and consequently of as great service to *Edward* the Third and his Successors. Being sensible how great a Blow this Piece of History would give *Philip de Valois*, he took care not to make use of it to prove the Antiquity of the Exclusion of the Daughters, amongst the barbarous Nations: But he was likewise apprehensive, as an Historian, he might be thought to prevaricate, if he should omit to mention it amongst the Arguments made use of by *Edward III.* to support his Cause. So in his *State of France*, p. 196. he introduces him, alledging the Example of *Atbalarick*, and makes *Edward's* Embassadors do the same, in his History of the *Interregnum*, which followed the Death of *Charles* the Handsome. Tom. 2. p. 110. He had good reason to imagine, as the World went, that this Example coming from an *English* King and his Embassadors, would be far from having the same Weight with the *French*, as if it had been urged by an Author in the Interest of *France*, altho' with a very different Design. Besides, he cunningly intrag'd this Objection, by thrusting it Head and Shoulders into a Question which was utterly foreign to

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the

the purpose, and which there is not any likelihood the Embassadors should mention, at least, I say, unless they were out of their Wits. He made them maintain by the Law of Nature, the Civil Law, and even by the Authority of the Scriptures, that the Female Sex ought not to be excluded from the Succession. Now, I say in my turn, this was no less than to make them go against common sense. How could they possibly uphold the Right of the Princesses of France to the Succession of the Crown, without being oblig'd to confess, that *Isabel*, King *Edward's* Mother, had no pretensions thereto, till after the Daughters of her three Brothers, who were all before her in order of Blood? With what Face could they claim the Crown of France for the Sister of the three last Kings, preferably to their *seven* Daughters? In short, it was but twelve Years before, at the Death of the young King *John*, that it was agreed and concluded, the Princesses of the Royal Blood were personally incapacitated to succeed to the Crown; which was six Years after confirm'd when *Philip* the Tall leaving no Male-Issue, was succeeded without Opposition, by his Brother *Charles* the Handsome, his own *four* Daughters being excluded.

There is no Appearance then, that *du Haillan* had any other Design in grounding the imaginary Plea of *Edward's* Embassadors upon the immediate Right of the Daughters to the Succession of the Crown of France, than to deceive his Readers, and make them (as far as in him lay) lose the sight of the real Point in dispute. *Du Haillan* turn'd it in such a manner, as to make *Edward's* Pretensions appear absolutely groundless

for

for two Reasons; First, That whether by Law, properly so called, or Custom having the place of Law, the Daughters never had any personal Right to the Crown of *France*; Secondly, supposing they had such a Right preferably to the Male Issue in the Collateral Line, yet could not Queen *Isabel's* Claim be admitted; since, as I said before, and shall shew in the Third Part, there were at that time *seven* Princesses, whose Right it was to reign before *Isabel*, being all Daughters of the three last Kings, to whom *Isabel* was but *Sister*. After all, tho' *du Haillan* has made King *Edward* and his Orators produce the Instance of *Atbalarick*, to prove the Exclusion of the Daughters, does not carry in it that of their Sons; he neither makes any Answer to it himself, nor by the Earl of *Arrou*, whom he furnishes with a long Speech, in reply to that which he very wrongfully puts into the Mouths of the English Embassadors. This Neglect of his seems to me very material.

After the Instance of *Amalasonta*, to verifie the Exclusion of the Female Sex from the Succession amongst the Barbarous Nations, the Dissertation goes on thus in the following Paragraph, p. 342.

“ As long as our *Francks* continued in *Germany*, “ this Usage, which takes away all share of “ Right to the Succession, from the Kings “ Daughters, was probably no more than a “ Custom; but from the time of their Establishment in the *Gauls*, that Custom, like all “ the rest, had the force of a Law”. It were to be wish'd, M. *de Vertot* had open'd his Mind a little farther, and shewn us, how he thought it came about, that that Usage having been only a Custom amongst the *Francks* as long as they



remain'd in *Germany*, changed its Nature, and with *all the rest of their Customs*, did, after they were settled in the *Gauls*, acquire the force of a Law, which it had not before.

For my part, I should be quite of another Opinion, that those Customs carried in them no less the force of Law amongst the *Francks* in *Germany*, than when they pass'd over into the *Gauls*. Without doubt they had Laws in their former Countrey. No Nation is properly so, without Rules of Government, whether Ecclesiastical, Civil or Military. These Rules are truly their Laws, whether they are written or not. What then did the *Francks* do when they went into the *Gauls*? Did they reduce their Customs into Writing, and order they should thenceforward be observed as Laws; or, which is the same thing, that they should have the Virtue of Laws? Or did they perhaps, content themselves with doing it by a verbal Resolution, and at the most causing it to be published in their several Armies, and in the Countries which they had taken possession of? It may be, they did nothing of all this; but continued for some time to live after their former Usage, practising the same Customs, that is, observing in the main the same Laws.

Since 'tis plain, the barbarous Nations exclude the Daughters from the Succession to the Crown, it cannot reasonably be doubted, but that *Custom* had originally the force of a Law amongst the *Francks*, and even that it was one of their Laws, properly so called. M. de Vertot says well, p. 344. Do we not know, it is from their Customs that the *Francks* derive the First Laws which they brought with them from their Native Countrey? *Those*  
Laws,

now, says he again, *which our Ancestors brought from beyond the Rhine.* — Now, what were those Laws? I question whether any other can be found, or shewn, than their ancient Customs. It seems to me therefore, the Author's distinction is not very exact, in not allowing the Customs of the *Francks* in general, the force of Laws, till they had settled in the *Gauls*.

In the Bottom he is of the same Opinion with the ancient Historian whom he censures. I have said, *du Hailan* in his History of the State of *France*, relates, that the Custom of excluding the Daughters from the Crown, was always practis'd by the Barbarous Nations, and has ever since been received as a Law. He lays down the same thing in the very same Terms in his History; and dedicating it to King *Henry* the Third, says thus: "Methinks the *Salick Law* is of sufficient Antiquity and Reputation, having been practis'd as a Law from the Institution of our First Kings." 'Tis evident, he takes the *Salick Law* in its common, tho' abusive Acceptation of that Word, meaning by it in particular, the Exclusion of Women from the Succession to the Crown; not under the Denomination of the *Salick Law*, for he maintains, the exclusion was not called by that Name, till a long time after; but consider'd in the main as a custom which served for a Law, and was ever really so, and which in process of time got the name of *Salick*, by way of distinction.

To the Observation which I have just now examin'd, *M. de Vertot* adds this Argument: And if the Daughters of private Families are excluded from the *Salick Lands*, and such like military Fiefs; if one may speak thus by

"way

“ way of Anticipation; because they are in-  
 “ capable of carrying Arms, † *quia pugnam fa-*  
 “ *cere non possunt*, says Mr. Pitbou, speaking of  
 “ Masculine Fiefs; With much greater reason  
 “ were Kings Daughters excluded from a Dig-  
 “ nity which require a Captain and a General  
 “ And as all the Daughters of the *Francks* were  
 “ unable either to command Armies, or to bear  
 “ any share in the Fatigues of War, it was  
 “ consistent with Justice, not to admit either  
 “ one or the other, of what Degree soever they  
 “ were, to any share of those sorts of Lands  
 “ designed for Men alone, as the Price of their  
 “ Blood, and Reward of their Services.” p 342  
 The Author had laid down the grounds of this  
 Argument, by saying in the foregoing Page  
 that the same Law ought to comprehend the  
 Head as well as the Members of the State, and

† This Reason, *quia pugnam facere non possunt*, brings  
 into my Mind a pleasant Passage of *Lewis Pignora*; who  
 speaking' *de capacitate faminarum in Successione feudali*, says  
 “ Quilibet Vassallus Dominum in prælio existentem  
 “ vire debet, quod mulieres non possunt, quia mol-  
 “ sunt ad belli onera sustinenda, atque judicia discen-  
 “ exercenda. Honestatis justitia non patitur, ut mulier  
 “ virorum sexui se immisceant, quia commixtio per-  
 “ culosa est ne milites propter concupiscentiam a mi-  
 “ litia divertantur. Vassallus Dominum suum consil-  
 “ re debet, sed varium & mutabile semper femineum  
 “ genus: illarum consilium extremum existit, audax  
 “ & ad omnia quæ amat vel odit femina, & vix pau-  
 “ mulieri impossibilia invenies: secretum etiam quod  
 “ tenere ignorant. His rationibus feudorum incap-  
 “ paces sunt ut ne testimonium quidem in eis ferri  
 “ possint.” I met with this Quotation in a Book en-  
 titled, *Theod. J. F. Gräswinkel's 7. Cti. Delpensis Dissertatio*  
*jure præcedentie inter Sereniss. Venetam Rempubl. & Sereniss.*  
*Sabaudie Ducem.* p. 228. This Author confesses, *La*  
*Pignora* does not do the Female Sex Justice.



the Royal as well as private Families. He returns to it in Page 344. "Why (says he) should the nature of the Salick Lands be distinguish'd? Is not the Law equally made for one as well as the other?"

This way of Reasoning has, no doubt, something very plausible in it; but nothing that is concluding in Questions of this kind. We see in all Nations certain Customs and Laws, which have not this exact Analogy and Conformity upon which the Author builds. But let us not go out of the Bounds of *France*. Custom has not been always of equal force *between the Head and the Members of the State*. "This Law" (says *Pasquier*, speaking of the *Salick Law*) "is not found always to have taken place in the Dutchies and Counties, altho' they seem to be Members springing from our Crown." He proves it by several Examples, and adds, This ought to convince us, that the Article of the *Salick Law* was not always equally observ'd by the Members and the Head of the State". *Mezerai* tells us, that one of the Arguments produced in behalf of the Daughter of *Lewis Hutin*, was, that in great Fiefs the Daughters succeeded. *M. Le Gendre* makes her Friends speak after this manner; "Is the Kingdom of a different nature from the great Fiefs which hold of it? If Daughters have inherited *Languedoc, Champagne, Flanders, Normandy, Guienne and Bretany*, why should they not inherit the Kingdom?" Nay there happened something very particular at the Coronation of *Philip the Tall*, which, I am surprized he suffered, considering the Consequences that might have been drawn from it in favour of the young Princess *Jane*. *Maltilda* or

*Maud*

*Maud* Countess of *Burgundy*, and Mother to the Queen, supported the Crown upon the King's Head with the Peers, as being Countess of *Artois* in her own right. Father *Daniel* says, this seem'd very extraordinary, *the thing not at all agreeing with a Woman*, and being without Example. It was no less surprizing, that the same Countess \* sat in Parliament in quality of a Peer, as the same Historian relates. Here then is a Woman, who in a Kingdom where Women are incapacitated to reign, fill'd Offices, and executed Duties which seem incompatible with any but the Masculine Sex. She is a Peer in her own right; she supports the King's Crown at his Coronation; she sits in Parliament. Altho' this, let them argue as much as they please upon the Conformity of things, and that Agreement and Equality which they fanſie ought to be in Kingdoms, between the Sovereign and the Subject. One may raise fine, well turn'd, bright Arguments; but they will have no solid Foundation.

I say farther, that the Daughters of the Royal Blood of *France* have often had Appenages which pass'd to their Descendants, altho' they never had a Right to succeed to the Crown. Lastly, we see at this Day the Daughters generally

\* " Even Women, whose Estates were erected into  
 " Peerdoms, or inherited them by Succession, may sit in  
 " Parliament. *Matilda*, or *Maud*, Countess of *Artois*, was  
 " summon'd, and gave her Opinion with the other Peers  
 " at the Judgment of *Robert* Earl of *Artois*. ---- And the  
 " Dutcheſs of *Orleanſe* excuses her self to *Charles* V. that  
 " she could not be present at the Tryal of *John de Montfort*  
 " Duke of *Bretany*. *Du Chesne*, *Antiq. & Rech. L. 1.*

*Tra.* 5. p. 509.

rally inherit their Fathers Estates. There are even some Provinces in *France*, where the + Daughters, if they happen to be born first, have better Provision made for them than their Brethren. The Quality of Heir at Law in those Places is joined, not to the Sex, but to the Order of Birth: So that the Sixth Article of the Chapter de *Alodis*, has been repealed by Use, in respect of private Families; whilst the old Custom of excluding the Daughters, subsists in relation to the Crown. Consequently, the Argument under Examination, being so strongly contradicted by Experience, cannot serve for such a Conclusion as *M. de Vertot* would draw from it.

He insists upon this, That the Kingly Office amongst the *Franks* required a Commander, and a General. From whence he concludes, 'twas both natural and just, the Female Sex should be excluded from that Dignity, being incapable of the Command of Armies, and of undergoing the Fatigues of War. But methinks, this way of reasoning may be turn'd upon the Author: For since through a long Dis-use, the Kings of *France* are no more obliged, as the First Founders

\* " I know (says *M. La Placette* in his Treatise of " Restitution, Chap. 2.) a very small Town in one of " the Provinces of *France*, where one half observes " one Custom, and the other another; the Eldest " Daughters in one carrying away the greatest Part " of the Estate from the Younger Brethren; and the " Younger Brethren in the other, having the same " Advantage over the Elder Daughters". This Town, or rather Village, is in *Bigorre* and *Bearn*. The Custom of *Bigorre* is for the Eldest Daughters; that of *Bearn*, for the Sons, tho' younger than the Daughters.



ders of the Kingdom were, to head their Armies in Person; 'tis plain, there is no longer the same reason for excluding Daughters from the Right of Succession: so that the Cause in this particular having ceased, the Effect ought to die with it. But setting aside, that the Female Sex is not absolutely unfit for War, as appears by many Instances of Women, that have, if not out-done, at least, equall'd the greatest Generals; some Expedient might have been found. For as the Male-Children amongst the *Francks* were admitted to the Crown in their Non-age, though they were not actually able to lead their Armies to the Field, in hopes they might one day be so; the Daughters might have had the same Privilege, notwithstanding their Inability for War, in hopes of marrying such Husbands as might supply that defect. Nay, by this means the Publick would reap Two great Advantages: First, the Daughters would in a few Years be in a condition to marry experienc'd Generals: And secondly, There would be a greater Certainty of having able Commanders at the Head of Armies. Who can tell what a Child's Capacity will be, when he comes to the Age of Twenty five or Thirty? Whereas so soon as ever the Heires to the Crown should be marriagable, they might be assured of finding a fit Husband for her, amongst such of their Generals as were qualified to command in Chief. Thus the Admission of Daughters to the Inheritance of the Crown amongst those Ancient *Francks*, would have better answer'd the Military Genius of that People, than the Exclusion of them from it. All this makes me think, we ought to quit

quit those Arguments, drawn from the nature of things, from Uniformity and Equity, and stick to such only as are grounded upon Facts: There is no other way to establish the Constitution of any Kingdom upon a sure and certain Foundation, when Matters are left undetermin'd or unexplain'd by the Laws. And M. de Vertot himself comes to this in the Sequel.

*The End of the FIRST PART.*





## PART II.



S the Author of the Dissertation has prov'd in the Instances of *Athalarick* and *Theodatus*, that the Barbarous Nations generally excluded the Female Sex from the Crown; so he shews by several Examples taken from the History of the Kings of *France*, the same Custom prevailed in that Monarchy in particular. “Lastly, (says he immediately after) whether it be the *Salick Law*, “or a Custom of greater Antiquity than that “Law, there is not one Instance to be given “in our first and second Royal Families, of “the Daughters pretending to the Crown, “when their Fathers died without Male Issue. “We have not seen (says he again, Page 345.) “any of our Princesses in the two first Families “claim a Right to the Crown, in default of “Issue-Male in the House reigning.” This Observation in the main is true: But the Expression is not so exact; for it necessarily leads one to think, that Cases have happen'd as well in the Second as First Family of the *French* Kings, where the Daughters have been excluded from the Succession, their Fathers dying without



at Male Issue. Now this never happened. In the second Family, says *du Chesne*, no Opportunity offered for extolling the Credit of that Ancient and Noble Law." *Antiq. &c.* 3. ch. 6.

It was not so with the first Line in which we have three Examples. *M. de Ventot* cites them in Pages 343, 344. "Let any one ransack all our History, let him run over the Lives of *Childebert*, *Charibert*, and *Gontran*, who all left no other Children but Daughters; he will not find, that any of those Princesses made the least Pretension to the Crown. *Clotarius* the first, youngest Son of *Clovis*, reunited the whole Monarchy under his Obedience, in 558. without any regard for the Princesses *Crotburga* and *Chrotisinda*, his Neices, and Daughters of his Brother *Childebert*." *exerai* tells us, the Exclusion of *Childebert's* Daughters, is the first Example of the Execution of the *Salick Law*, in favour of the Male line. But *Father Daniel* (Tom. 2. col. 141.) goes further: After having given an Account of the Death of *Theobald* or *Tibald* King of *Austrasia*, he left no other Heirs than his † two Great Nieces, *Childebert* and *Clotarius*; he adds this mark; "'Tis here we see for the first time two considerable Things expressly taken notice of in History, relating to the Right of Succession to the Crown of *France*. First, That this Right was in the Royal Family of *Clovis*. Next, That no other could claim it but the Male Line." This second Article is not at all

*Du Haillan*, *de Serres*, and *M. Le Gendre* say, that *Theobald* made *Clotarius* his universal Heir. Variations in every Thing.

all to the Purpose, because *Tibald* left neither Son nor Daughter. So the Succession devolving upon his two Great Uncles, or made over to one of them by Testament, is quite out of the Question. But 'tis far otherwise with Relation to *Childebert*, as he left Daughters behind him; *Mezerai* has good reason to say, the Exclusion of them, was the first time the *Salick Law* was put in Execution to bring the Male Line to the Crown. *M. le Gendre* says the same, *viz.* that this was the first time the Princesses of the Blood did not inherit their Father's Crown.

*Fauchet, du Chesne*, and Father *Daniel*, all cite a Passage of *Agathias*, which gives great Weight to this Instance. This *Grecian* wrote the History of part of *Justinian's* Reign; and, as he says himself, began it when *Justin* the Younger came to the Throne, which was about the End of the Year 565. This Author, who liv'd at the same time, at the End of the Seventh Chapter of his Second Book, says thus; "Whilst these things were doing, *Tibald*, who commanded those Provinces of *France* that lie next to *Italy*, died in the Flower of his Youth. — *Childebert* and *Clotarins*, as his next Kindred, were by the Laws of the Countrey call'd to the Succession of the Kingdom; but the Disputes that arose between them about the Partition, had like to have ruin'd their Dominions. *Childebert*, besides his extream Old Age, labour'd under an incurable Consumption. He had none but Daughters, and no Male Issue that could inherit the Crown. (Thus it is translated by *M. Cousin*.) This Passage is a plain Proof, that at that time the Exclusion of the Female Sex, with Relation to

the Succession of the Crown, was look'd upon as a Law in *France*. Father *Daniel*, after having drawn this Consequence from it, observes, the *French* Lawyers have not fail'd to make the most of this ancient piece of History. As for the rest, the Authority of *Agathias* is sufficient to refute those who have written, that *Childebert* died without Children. This is what *de Serres* and *le Sueur* have done; into which Mistake they have without doubt been led by *Nich. Giles's* chronicle. Here again the Historians differ; now is it, that there should scarce be any one point in which they all perfectly agree?

Here I shall take notice of a very material mistake which *Morey* has made, in the Article concerning *Agathias*, of whom I just now spoke. He says, that Author begins his History at Justinian's Death, where *Procopius* ended. He is deceived in all Respects: First, *Procopius* wrote no more of the History of *Justinian* than to the twenty sixth Year of his Reign, as *Agathias* expressly mentions in the last Paragraph of his preface. Secondly, *Agathias* was so far from starting upon the History of *Justinian's* Successor, that he never finish'd even that Emperor's; according to *Baronius*, he carries it up only to the Thirty second Year of his Reign, which continued Thirty eight. Lastly, *Agathias* says, he began writing his History about the time when *Justinian* being dead, Young *Justin* took possession of the Empire: By this he points out, that as *Morey* conceives, the *Epocha* of the Subject-matter of his History, but the Date when he sat down to write and compose it. Had *Morey* only seen or known the Title of it, he could not have made such Blunders; for the Title



Title is, *Of the Reign of Justinian*. But he is not the only One who has amus'd the World with the Detail of Books at random, and even without having so much as ever look'd into them.

*Agathias* did no more than carry on *Procopius*; so that in my Opinion, it may not be amiss to set right a Passage concerning the latter, in the *Method for studying History*. It would be a great Injustice to that Anonymous Author to place him amongst those careless Writers I complain of: But he has happen'd to say, that *Procopius*, whom he represents as a Pagan, begins his History at the Death of *Honorius*, and continues it to the Sixteenth Year of the Emperor *Justinian* that is, from the Year 408. till 554. Tom. i. p. 167. The Name *Honorius* has dropt from his Pen, in stead of *Arcadius* his Elder Brother, who died in 408. whereas the Death of *Honorius* was not till 423. There is besides, a Fault of the Printer, in the Figures 16. for 26. for, as have made out by the Authority of *Agathias*, *Procopius's* History reaches to the Twenty sixth Year of *Justinian's* Reign. I must say farther that the Author of the *Method for reading History* ought not so absolutely to have said *Procopius* was a Pagan. Such as have not examin'd the Fact, will without difficulty believe and take it for granted upon his Word: But he could not be ignorant of the Variety of Opinions thereupon, and therefore 'twas fit he should at least have taken notice of that Variety. Upon the whole, I do not think he has taken the right Side. I am of Opinion with *Vossius*, that *Procopius's* † Books upon *Justinian's* Building

† Ex iis clarè elucet, hominem fuisse Christianum non Gentilem, de *Hist. Græc.*

prove clearly he was a Christian. President Cousin says likewise, in his Advertisement upon the first Volume of the History of Constantinople, that Procopius was a Christian, as may easily be discover'd in many Places of his Works: He quotes none of them; but here is a very convincing one. \* *At that time, Jesus the Son of God was clothed with a Mortal Body, and conversed wisely with in Palestine. — He shew'd plainly he was truly the Son of God, by his Holy Life and Divine Miracles; He rais'd the Dead out of their Graves, &c.* M. Cousin's Translation of the War against the Persians, Book 2. cb. 12. § 3. To destroy the Effect of such a Passage as this, tho' no other could be produc'd, there must be something more than bare Conjectures. I know what Arguments are brought by *La Motte le Vayer*, to prove Procopius a Pagan; but will be bold to say, it would be no hard matter to refute them.

There is in the History of the Daughters of Childebert, a Circumstance, in my opinion, well worth remarking; *Mezerai* reports it thus: "Their Uncle *Clotarius*, either out of hatred to their Father, or that they might not pretend to the Crown, kept them imprison'd, together with their Mother, till he had establish'd himself in the Kingdom". This Precaution of *Clotarius* does not indeed prove, he had no right to succeed his Brother, who died without Male Issue; but it may be inferr'd from hence, that he did not entirely rely upon the Plainness and Justice of his Pretensions, since he back'd them with so violent a Procedure; at least, one must

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\* Ὅτι δὲ τὸν Χριστὸν ἐκείνῃ ἡμέρᾳ ὃ καὶ Θεὸς πατὴρ ἐν σώματι ἦν : : : :  
ἀπεκρίνας ἐπεκρινόμενος ὅτι καὶ Θεὸς πατὴρ αἰς ἀληθείας εἴη . . .

conclude, and 'tis what I would chiefly observe, that *M. de Vertot* has no reason to insist, as he does, that *Clotarius's* Nieces never made the least Claim to the Crown. It would have been better, in my Opinion, to have said, that *Childebert's* Subjects acknowledg'd *Clotarius's* Right, by submitting peacefully to his Government, and that no one laid claim to the Succession in behalf of his Brother's Daughters: For we ought not to be surpris'd, they did not do it by themselves, altho' they had a Right, since he detain'd them in fast Prison, and secur'd their Mother, lest she should cabal in their favour. It ought to be suppos'd, he did not set them at liberty, till they had promised not to give him any Disturbance. *Mezerai* takes notice, they never were married. 'Tis very probable, *Clotarius* forced them to renounce Marriage, and took care they should keep their Word in that particular.

Father *Daniel* says nothing of their being kept in Prison; but makes some amends, by saying, that *Cbrannes* having rais'd another Rebellion against his Father, soon after *Childebert's* Death, *Clotarius* banish'd his Nieces and their Mother. He imagines this was done, because the young Prince enter'd into measures with the Mother, in order to bring about a second Rebellion. His Expressions intimate, that till then, neither she nor her Daughters had received any ill Treatment from *Clotarius*, "The Disgrace of the Queen (says he) Wife to the late King, who at that time was banish'd with her two Daughters, makes me conjecture, that 'twas with her the young Prince had taken measures for a Second Rebellion."



"volt". This Notion can never agree with that Circumstance in *Mezerai*, of *Clotarius's* keeping the Mother and Daughters in Prison till he had secur'd the Kingdom. In this he follows the President *Fauchet*. "† *Clotarius* (says he) having seized on the Kingdom and the Treasure left by his Brother, put also his Wife and Daughters into Prison". *M. le Gendre*, in that part of his History published in 1700, made mention in general of their Banishment, but not a Word of their Imprisonment: But in the last Edition he speaks neither of their Banishment nor Imprisonment.

The Second Example is this: "*Cherebert* (says *M. de Vertot*) dying in 570, left only Three Daughters; the two youngest went into a Cloyster; the eldest, whose Name was *Bertha*, married *Ethelbert*, King of *Kent*: And we do not find by the History of *France* or *England*, that either that Princess or her Husband ever laid Claim to the Crown of *France*". I do not believe, any substantial or considerable Objection can be made to this Example. *Giles's Chronicle* says positively, *Cherebert*, or, as he is there called *Aribert*, died without any Child. But altho' this Author had an Employment which might very well give reputation to his Chronicle, having been Secretary to *Lewis XII.* that is, as Father *Daniel* explains it in his Preface, Secretary of State; yet there is little account made of it for the first Ages of the *French Monarchy*.

The Third Example is taken from *Gontran's* Will. "This King of *Burgundy* (says *M. de Vertot*) having lost all his Sons, and but one Daughter left, nam'd *Clotilda*. appointed *Childebert* his Nephew, Son of his Brother *Sigebert*, King of *Austrasia*, his chief Heir. At the same time he bestowed a small Part of his Dominions upon *Clotarius*, second Son of his Brother *Chilperick* the First; but he left not an Inch of Land to his Daughter".

'Tis certain, *Gontran* left his Dominions to his Nephew *Childebert*; as all the *French* Historiographers agree. And 'tis very surprizing, that *Baronius*, about the Year 598, should quarrel with them upon that score, pretending *Childebert* died two Years before *Gontran*. He would have been in the right, if *Gontran* had died, as he says, in 598: For he makes it very plain from *St. Gregory's* Letters, that *Childebert* died two Years before. His Mistake therefore arises from making *Gontran's* Life five Years longer than it ought to be, and placing his Death at the time I have mentioned. *Childebert* survived him above three Years: For *Fredегarius* and *Aimonius*, mentioned by † *Petau*, say, that *Childebert* died in the Fourth Year after he came to the Possession of *Gontran's* Dominions. Now *Childebert* died in 596; *Gontran* therefore must have died in 593.

That he left no Son, is what all the Historiographers agree in; but they differ concerning his Daughter: *De Serres* and *le Sueur* make him die without Children. Father *Daniel* and *M. le Gendre* say nothing on that Article. And 'tis very

† *Rat. Temp.* 2. l. 4. c. 16.

very strange, *du Haillan*, who of his own head, brings the three Examples in the first Line; and also makes the Earl of *Artois* produce them, should nevertheless say not a Word of the Daughters of *Childebert*, of *Cherebert* and *Gontran*, in the whole Course of his History. 'Tis not that I would give a Handle for any Suspicion thereupon. My Design is only to observe the Mistakes of some Historians, the Negligence of others; but especially, the Disagreement amongst them almost in all things.

Perhaps this Expression, *without Children*, in speaking of the Kings of *France*, was made use of only to denote their leaving no Male Issue; because no other was ever capable of the Succession. *Mezerai* must have used it in that sense, when he said of *Lewis XII.* about the Year 1514. §. 2. *As he had no Children, he brought up Francis Duke de Valois with great Tenderness and Affection; who by the Law of the Kingdom was necessarily appointed to succeed him.* But, besides the Impropriety of this Expression, it opens the way to very great Mistakes. I know one, who happening to light upon this Passage of *Mezerai*, concluded, that the Princess *Claudia*, of whom this Historian makes mention in this very Paragraph, and whom he calls the Daughter of the Queen († *Anne of Bretany*, who took *Lewis XII.* for

† *Father Daniel* has observ'd, there are two Mistakes in the Chronology of the Epitaph of *Anne of Bretany*, transcribed by *Father Felibien*, in his History of the Abbey of *St. Denys*: The first is, in dating her Death Jan. 1515, which was in 1514, nay, in 1513, as they reckoned in those Days: For then the Year began on *Monday* in *Easter-Week*. But I make no question, this Fault is owing to the Copist or Printer, who, in *Father Felibien's* History, has put a 5 for a 3, as it often happens.



for her *second Husband*) must have been the Daughter of her first Husband *Charles VIII.* and no one could understand it otherwise, in case this Paragrap were the only Fragment remaining of the History of *Charles VIII.* and *Lewis XII.* and that it could not by any other means be known, that Princess *Claudia* was the Daughter of her second Husband, since *Mezerai* says, *he had no Children*. Those who are Lovers of Exactness, will do well to read this Passage in the Original, in order to convince themselves how necessary it is, to an Author should always have in his Thoughts, that the least want of Care may be attended with the very worst Effects. Why did not *Mezerai* say, *As Lewis XII. had no Sons*? But it may be, the Fault is owing to the Copist or Printer.

The Epitaph is set down, as it ought to be in this Particular, in Father *Germain Millet's* Book, call'd *Le Triph sacré de St. Denis*. The second Mistake, continues Father *Daniel*, is, that 'tis there said *Anne* died the Twentieth of *January*, whereas it was on the Nineteenth: This second Error is real. The Epitaph its self proves it, which bares Date *Anno Salutis 1513. die Lunæ 20 Januarii obiit.* &c. If one examines what Day the Year 1513 began upon, 'twill appear to have been on a Sunday, so the Twentieth could not be a Monday, whereas the Ninth falls on that Day. This shews how much it were to be wish'd, Historians would set down the Days of the Week as well as the Days of the Month, when they are able. This Epitaph demonstrates, that *Mezerai*, M. de *Brianville*, *Morey*, Father *Daniel*, and M. *le Gendre*, where all mistaken in saying, *Anne* had two Sons by *Lewis XII.* one may see there she had but one. The two last of these Historians tell us, she had only two Daughters by him. Indeed she left but Two; but she had Three. *Cui Regi (Ludovico XII.) cum tres filias & filium unum peperisset, vitæ prob dolor! excessit, duabus tantum filiabus superstitibus, scilicet D. Claudia & Renata.*

But the chief Observation I would make upon the third Instance of the Daughters being excluded in the first Line, is, that it is not of so much force as at first it seems to be, because of this Circumstance in *Mezerai*, that *Gontran's* Daughter went into a Convent in her Father's life-time: He left only a Daughter named *Clotilda*, who had taken the Vail. Can it not be supposed *M. de Vértot* perceived this Defect, and if I may be allow'd to Pun, for that Reason drew a Vail over that of the Princess? He has observ'd, that of *Cherebert's* three Daughters, the two Youngest put on the Vail. He might have said as much of *Gontran's* Daughter, with this Difference, that *Mezerai's* Expression leaves it doubtful, whether they turned Nuns in their Father's Life-time, or after his Death; whereas speaking of *Gontran's* Daughter, he says plainly, that she had already put on the Vail in her Father's Life-time. Now it may be her turning Nun was enough to incapacitate her for the Succession, or at least gave a Pretence to exclude her, supposing her Sex had not. *Mezerai* tells us, *Pepin* caused his Nephews, the Sons of *Carloman*, to be shaven, that they might never make any Claim to their Father's Dominions. *Tom. i. p. 214. Ed. de Hol.*

It was, perhaps, in the same View that *Chilbert*, and *Clotaricus* the Son of *Clotus*, having secured their Brother *Clodomir's* three Children, desired their own Mother *Clotilda*, who was Grandmother to the three young Princes, and had the Care of their Education, to give her Consent they should be shaven, threatening otherwise to put them to Death: This is what they gave her to understand, by sending her a naked Sword with a Pair of Scissars; upon which, in

in the Extremity of Grief, she cried out, *that she had rather see them dead than shaven.* I know not whether *Childebert's* and *Clotaricus's* Intention by cutting off their Hair, was to make them Monks, (which is very likely), or to lop them from the Royal Family of *France*, which distinguished its self by long Hair. Hence it was, that *Clodomir* being kill'd in a Battle with the *Burgundians*, in which nevertheless he had the Victory, † was discovered of the Enemy by his long Hair: "Because, says *du Hailan*, no Body " else in *France*, but the Kings and Princes of " the Blood wore long Hair." However that be, the Abbot *St. Real*, towards the End of the Fifth Discourse in his Book upon the Use of History, is very much mistaken in the meaning of *Clotilda's* Exclamation, by supposing she had really preferred her Grandchildrens Hair before the safety of their Lives, which of all Extravagancies would have been the greatest: Whereas her meaning was (as Father *Daniel* has explained it) *that she chose rather to see them dead, than reduced to the Condition of Subjects*; 'tis thus this Historian makes her speak. *M. Bernard* has very well handled this Mistake made by *M. de St. Real* in his *Nouvelles de la Republique des Lettres du Mois de Juin* 1701. Yet there is another in the History

† Father *Daniel* says, whilst *Clodomir* was pursuing the Runaways, he found himself engaged with them, having scarce any one of his own People to attend him; and having halted, in Expectation that some of his Party would come to his Assistance, was discover'd by the *Burgundians*, who knowing that Prince by his long Hair, made a Signal to him, as if they had been *French-men*, upon which he advanced towards them, and as soon as he came near, was run through in several Places, and kill'd upon the Spot. T. I. col. 67.



story which he has not observed, but fallen into the same himself. This Abbot does not name *Clotilda*, but by way of Indication, calls her *this* Mother of the first Line of our Kings. But he says, the three young Princes of whom we treat were *her Children*; and *M. Bernard* himself says, *they were Clotilda's Children by Clodomir*. They did not consider, that Princess was *St. Clotilda*, Wife of *Clovis*, Mother of *Clodomir* King of *Orleans*, *Childebert* King of *Paris*, and *Clotarius* King of *Soissons*, who at length came to inherit the whole *French* Monarchy: So she was Grandmother to *Clodomir's* three Children. *Du Haillan* calls their Mother *Goldeak*, and *Mexerai*, *Gondioche*. She married her Brother-in-law *Clotarius*, whilst he had another Wife, soon after he had murder'd two of his own Children; and the third had likewise fallen a Sacrifice to his Cruelty, if they had not prevented it by putting him out of his Way. "He resolved (says *Father Daniel*) to be shaven, and to go into Holy Orders, as soon as he was of Age. 'Tis his Name, though very much disguised, the Church and Village of *St. Clotus* near *Paris* bears at this time, where he lies interr'd, and highly honour'd. Happy in having never been a King, since by that means he became a Saint. *Tom. i. col. 48.*

At last, *M. de Vertot* assures us, *Gontran* did not leave an Inch of Land to his Daughter. I find, however, the contrary in a very valuable Author, that is, *President Fauchet*; after having said that *Gontran*, who died without Male Issue, had in his Life-time appointed *Childebert* King of *Austrasia*, his Brother's Son, King over the *French* in *Burgundy*, in a full Assembly of the Nobles of

the said Kingdom, he adds, " And yet one cannot say, that by this Donation he disregarded his Daughter, since by an Agreement with his said Nephew, he settled a *large Portion of Land* upon her; thereby shewing the great and paternal Affection he had for her. *De l'O. rigine des Dignités. cb. 2.*

These Instances in the first Line, make too considerable a Figure in the *French History*, for us not to wonder *Pasquier* should take no notice of 'em; which if he had, he would not have said, " The Luck of the Times had been such from all Antiquity, as never to suffer (at least as I can find plainly express'd in our Histories) the Crown to be without Male Issue in a direct Line, except since the Death of *Lewis Hutin.*" *Recb. l. 2. c. 14.* What a Mistake is this, for a Man of *Pasquier's* Character, Author of the *Recherches de la France*, in which there are so many good Things? Who could not have depended upon him for Truth? For who could imagine he would venture to write this designedly, without having first well examin'd it, especially when one reads this Parenthesis [*at least as I can find plainly express'd in our Histories?*] Was it possible for him to look into them, and not see abundance of Collateral Successions before the Death of *Lewis Hutin*? There are no less than Six Examples in the *Merovingian Line* alone, reckoning with *Mezerai* no more than Twenty one Kings; and there will be *Seven*, if *Clotarius* the Fourth be inserted for the Nineteenth King, as some allow. Let me set them down according to *Mezerai's* Chronology.

1. *Childebert I.* The Sixth King, died without Male Issue, and was succeeded by his Brother *Clotarius* in 558.

2. *Cherebert* or *Charibert*, the Eighth King, died also without Male Issue, and was succeeded by his Three Brethren, in 570.

3. *Clotarius III.* the Thirteenth King, died without Children. *Thierry*, his younger Brother, got into the Throne; but was soon dispossest of it by his Elder Brother, *Childerick II.* in 669.

4. The same *Childerick*, the Fourteenth King, being kill'd together with his Son; after an Interregnum of some Months, *Thierry* was taken out of the Monastery of *St. Dennis*, to which his Brother had confined him, and re-placed upon the Throne in 673.

5. *Clovis III.* the Sixteenth King, died without Children, and was succeeded by his Brother *Childebert II.* in 695.

6. *Chilperick II.* the Nineteenth King, died also without Children, and *Thierry II.* called *de Chelles*, Son of *Dagobert II.* succeeded him in 721.

If *Clotarius IV.* be admitted into the List of Kings, he will be a Seventh Example to demonstrate how egregiously the Famous *Pasquier* was mistaken.

As for the second Line, *Lewis*, <sup>and</sup> *Carloman* and *Charles* the Simple, <sup>all</sup> Sons of *Lewis le Begue*, died without Off-spring; so also did *Lewis V.* last King of the *Carlovingian* Race. And the number of Collateral Successions would swell very much, if we were to examine the Series of the Kings of *Metz*, *Soissons*, *Orleans*, and *Chalons*. But I have inserted none in my List, except such as have been Kings of all *France*, or *Paris* in particular. This is the Reason I have said



said nothing of the Daughter of *Gontran*, King of *Burgundy*, who is the last Example of the three historical Proofs in the First Line, made use of by *M. de Vertot*, to justify the ancient Practice of the *Salick Law*, in relation to the Crown of *France*.

These three are the only Examples can be found till the Successor of young King *John*, Son of *Lewis Hutin*. Many Authors have produced them; as, <sup>1</sup> *Bodin*, <sup>2</sup> *Fauchet*, <sup>3</sup> *du Chesne*, <sup>4</sup> *de Serres*, and *du Haillan*. This last mentions both of them in his History, and in his *State of the Affairs of France*; in which, after having said, as I have related, That it was a Custom amongst the barbarous Nations, not to admit the Daughters to the Succession of their Kingdoms, he adds, "And altho' during the  
 " Times of † Paganism, as well as since the  
 " Introduction of Christianity, many of the  
 " Kings of *France* have died without Male Issue, leaving only Daughters behind them;  
 " yet none of them ever succeeded their Fathers. *Childebert*, King of *West France*, Son of  
 " *Clotwis I.* left only Two Daughters, who nevertheless did not inherit the Crown; but he  
 " was succeeded by his Brother *Clotarius I.*  
 " *Cherebert*, Son of the said *Clotarius*, leaving  
 " three Daughters, they did not succeed him,  
 " and his Brother *Sigebert* was King after him.  
 " *Gontran*, King of *Burgundy* and *Orleans*, Son  
 " of the said *Clotarius*, left none other but his  
 " only

\* *De la Rep.* l. 6. c. 5. towards the End. <sup>2</sup> *Orig. des Dign.* ch. 2. <sup>3</sup> *Antiq. &c.* l. 3. c. 6. p. 642. <sup>4</sup> *Invent. upon Pharamond.*

† He would have found it an hard matter to prove this Article.

only Daughter *Clotilda*, who did not succeed him; so his Nephew *Cbildebert*, Son of his said Brother *Sigebert*, was King. *By these Examples therefore, 'tis evident, that in the First Line of our ancient Kings the Crown of this Kingdom was never worn by the Female Sex.*" *Fol. 191.* All this, except the first Period, is to be found Word for Word, in the Speech *du Haillan* lends the Earl of *Artois*, to answer that with which he had furnish'd the English Embassadors.

By this Passage which I have quoted, may be seen how far this Historian is from thinking the calling of *Philip of Poitou* to the Succession of the Crown, by excluding the Daughter of King *Lewis Hutin*, was not, nor ought to be done. The Parenthesis therefore, which carries in it these two Notions in that Passage of *du Haillan*, criticiz'd upon by *M. de Vertot*, expresses nothing but the Opinion of the too severe Censors of the History of France. The Historian has laid this down, *That pursuant to the ancient Custom before-mentioned, the Daughters did not succeed to the Crown of France.* The Parenthesis insinuates to the contrary, viz. that the Exclusion of the Daughter of *Lewis Hutin* was a thing never before done, and which ought not to be done. How can it agree with good sense to speak after this manner, unless it be by way of Objection to what is before confirmed by several Examples, and conformable to ancient Custom?

*Du Haillan* is not satisfied with making it appear, that the Exclusion of the Daughters in relation to the Succession of the Crown, has been an ancient Custom, in use, not only in France,

France, but also in all the Nations which he terms Barbarous. \* He says farther, the *Salic Law* is better, more honourable, and more advantageous, than 'tis ancient. He expatiates in shewing the Advantages of it, and calls it one of the † best Laws that was ever made in any Kingdom. Perhaps it would be no hard matter to shew he is deceived, at least, that he goes too far, when he says afterwards "it would be very necessary to make a Law in France, that as the Women are excluded from the Crown, so they should also be from the Administration: For, adds he, *it has cost us very dear*". As if the Kingdom of France had never been ill governed, but by Women; or that they had never governed it well. " *Blanche* the Mother of St. *Lewis* (says || *Pasquier*) behaved her self so wisely, that as the Roman Emperors took upon them the Appellation of *Augustus*, in commemoration of the many happy Achievements of the Emperor *Augustus*; so anciently the Queens who survived their Husbands, would be called by the Name of *Blanche*, in token of the wise Administration of that Princess". However, *du Haillan's* Notion shews, he could not be capable of insinuating, as the Parenthesis does, that the Exclusion of *Lewis's* Daughter was a thing that *never was*, and *ought not to have been*. It follows therefore, that what he said, was to be understood as coming from such as he calls, the too severe Censors of the History of France; and in all likelihood, he meant the English; altho'

\* Etats des Aff. de Fr. fol. 193.

† Ibid. fol. 197.

|| Rech. l. 2. ch. 15. 234.



altho' he is mistaken in that, as I have already shewn. If this be not the Case, the Parenthesis is absolutely foreign to the purpose, and he falls into a manifest Contradiction. I agree, his Style is something confused; but in justice we ought to correct and rectifie the Obscurity and Ambiguity of his Terms, or the Turn of his Expression, by those Places which † without difficulty explain his true Meaning.

That we may the better see what that is, and be convinced of its Incompatibility with the Sense of the Parenthesis, we need only read over this Extract from his *State of the Affairs of France*, “ \* Now therefore, we must come to the *Salick Law*, which some Modern Historians have ascribed to *Pharamond*. It has been said, that true it was, the *French* had at first certain Laws, call'd *Salick*, and *Ripuary Laws*, which did really exclude the Female Sex from the Succession to Estates; and upon this they would have us believe, that *Pharamond* made a particular *Salick Law*, by which he expressly declar'd, it was not his Intentions the Female Sex should inherit the Crown of *France*. But why should *Pharamond* make such a Law for the Crown of *France*, since he never was in *Gaul*, now called *France*, nor crossed the *Rhine*; but kept within his Province of *Franconia*, and was not King of what is called *France* at this day? Those who would persuade us to this, understand very little of the Government of those ancient Barbarous Nations: ”

† Quà in sententiâ scriptor fuerit, ex cæteris ejus Scriptis. . . . sumi oportebit. *Cicer. de Invent. lib. 2. cap. 40.*

“ ons : For it was a Custom observ'd among  
 “ them, not to admit the Daughters to the Suc-  
 “ cession of their Kingdoms, &c.” Let any one  
 take the trouble to examine the Analysis of this  
 Extract, and he will see, that 'tis impossible  
 better to establish the Antiquity and Authority  
 of the main Point of what is called the *Salick*  
*Law*, and which consists in the Exclusion of the  
 Daughters from the Succession to the Crown of  
 France.

*Du Haillan* then confesses, *The ancient Frankish*  
*bad Laws, called Salick and Ripuary Laws,*  
*which truly cut off the Female Sex from the Inheri-*  
*tance of Estates.* He recites in his History all that  
 is urged on both sides of the Question, *Tom. i. 20*  
 and insinuates there, that those Laws were en-  
 acted and confirmed by *Pharamond*. 'Tis very  
 true, says he, *that there is in the Tables of his Sa-*  
*lick Laws, an Article containing these Words.* In  
 the *Salick Law* no part of the Inheritance comes to  
 the Females, the same being acquir'd by the Masculine  
 Sex. . . . But he pretends, this Article was  
 made only to regulate the Succession of Estates in  
 general ; that is, the Succession of Estates of  
 private Families. This he explains in his *State*  
*of the Affairs of France*, and in his History,  
 “ \* 'Tis (says he) an Article of the *Salick* and  
 “ *Ripuary* Laws, relating to the Succession  
 “ of all Generations and Families, and not  
 “ particular to those of Kingdoms.—† This  
 “ Article is so far from mentioning the Succes-  
 “ sion of Kingdoms, that it does not even speak  
 “ of Fiefs, but only of Allodial Tenures ||. Se-

\* *Etat. Fol. 191.*

† *Hist. Tom. i. 20.*

|| To have a just Notion of Fiefs and Allodial Tenures,

Secondly, he maintains, and 'tis a natural Consequence of what he just now laid down, That Pharamond did not make a particular Salick Law, by which he has expressly declared, his meaning was not, that the Female Sex should succeed to the Crown of France. This he proves by two Arguments: The first is, that it was impossible Pharamond could have any such Design, never having set foot in Gaul, which is now called France. He did not come over the Rhine; he confined himself still within the Limits of his Province of Franconia, and never was King of what is called France at this day. Du Haillan's second Argument in this Point is, That such a Law was not necessary; because it was the constant Practice of the barbarous Nations, not to admit the Female Sex to enjoy the Crown. He expresses himself thereupon with nervous Words; and upbraids those with Ignorance whom he refutes. They, says he, who would make us believe this, know very little of the Government of the ancient Kings

and consequently wherein they differ, one may consult Pajquier in his *Recherches*, l. 2. c. 13. M. de Bignon, who treats of Fiefs, in his Notes upon the 5th Chapter of the second Book of *Formuls* by Marculphus, and of Allodial Lands, upon the second Chapter of the first Book. But to direct the Reader to a more easie Discovery, let him look into *Furetiere's* Dictionary with the Additions by M. de Bauval, and he will there see, in general, that the Allodes, which at this day are called *Franc-Allodes*, were Lands enjoyed by Right of Inheritance, or acquired in absolute Property, without any sort of Incumbrance or Charge: Whereas Fiefs were Lands granted for a Term, or for Life, or for ever, and so pass'd to the Heirs of the Donatary; but in all these Cases, were subject to certain Charges and Conditions. They were formerly called *Benefices*. M. de Bauval says, the Word *Fief* is not to be met with in any Author of older standing than Hugh Capet, or Charles the Simple.



*Kings and Kingdoms: For it was a Custom amongst the Barbarous Nations, never to admit the Daughters to succeed to the Crown.* Thus he shews the Substance of the *Salick Law*, by which I mean, the Exclusion of the Female Sex from the right of Inheriting the Crown of *France*, is of greater Antiquity than *Pharamond*; and of so much Authority, as to render it altogether unnecessary for that Prince to explain it by his Laws; because it was an inviolable Custom, not only in his Dominions, but even amongst all the Barbarous Nations. He comes afterwards to the Examples taken out of the first Line of the Kings of *France*; which shew, that Three of those Kings having left only Daughters behind them, *none of them ever came to the Crown.* Can their Exclusion from the Royalty be better grounded by Right and Fact? Could *du Haillan*, with these Notions in his Head, intend (unless he were crack-brain'd) that we should understand the Exclusion of the young Princess *Fane*, was a *thing never done before, and ought not to have been done?*

'Tis clear then, *M. de Vertot* has himself been too severe a Critick upon this Historian, by calling him a bold Author. He makes his Boldness consist in "that he seems to innuate, that the Article treating of the *Salick Law* was introduced into the Chapter de *Adolais* by *Philip* the Tall, or at least, that he was the first that took the Advantage of it to exclude his Niece." Here are two Charges of a very different nature. The first is very heinous; the second is nothing. As for the first, it has no Foundation. Does not *du Haillan* clearly establish the *Pre-existence* of the Article in question, when he relates, it as making a Part  
of

of the *Salick* and *Ripuary Laws* of the ancient *Francks*? Besides, is it not enough, that he says, *Philip* the Tall, to serve his turn, made use of those Words of the *Salick* and *Ripuary Laws* of the ancient *Francks*, *Let not Women inherit the Salick Land*? Does not this apparently clear him from the Charge of having forged and foisted in that Clause in the Chapter *de Alodis*?

The second Charge, I said, was nothing. 'Tis true, *au Haillan* pretends, the Earl of *Poitou* was the first who made use of the Sixth Article in the 62d Chapter of the *Salick Laws*, to prove by a written Law, the Male Line only had a right to succeed to the Crown of *France*; but that he was mistaken in it, since that Article did not properly relate to the Succession of this Crown. However, I do not see wherein that Prince was offended. For he did in this case no more than all Kings and private Persons, in the Disputes they happen to be concerned in. Let them have ever so much right on their sides, they themselves, or such as they employ, will bring bad as well as good Arguments to defend their Cause. But after all, if there were any harm in this, the Blame ought to fall upon *Philip's* Ministers: He trusted them, no doubt, with the Care of discussing and examining his Right. He was no more to be responsible for the Abuse of the *Salick Laws* in his favour, than for the impertinent Application of those Words in the Gospel, *Lilies spin not*, to draw a conclusion from thence, that the Kingdom of *France*, which gives Flowers de Lys for its Arms, ought not to descend to the Female Sex. He did very ill, if it be true, as *du Haillan* says many affirm, that he gained a great Number of the Nobles, by

Promises, and the rest by Compulsion, to give a Sanction to the *Salick Law*; that is, the Sixth Article of the Chapter *de Alodiis*, as a Law enacted to regulate the Succession to the Crown. But supposing he had been guilty of that Fault, 'twas wholly personal; it did not affect the Constitution of the Kingdom, nor consequently the Right of those Kings who succeeded *Lewis Hutin* by virtue of that Constitution. So that *du Haillan*, in animadverting upon that Fault, did no other than pass a just Censure upon the Proceeding of *Philip* the Tall, without doing wrong to any one whatever. There is no Boldness in this; 'tis no more than a Freedom and Candor becoming a faithful Historian.

The chief Question concerning this matter at this time is, *Whether the Daughters of the Royal Family of France have a right to-succeed to the Crown?* The Negative is very evident, especially since the Death of young King *John*. But is not this what *du Haillan* acknowledges without the least Difficulty. Nay, more: He says expressly, "That altho' the *Salick Law* were not so old as *Pharamond's* time, 'tis ancient and authentic enough, it having been for a long time practised and observed in *France*". He adds, "'tis Time only gives Admiffion and Authority to Laws; and when they have once taken place, they serve as a Precedent for the time to come." He goes yet farther, and affirms, (as I have said) more than once, that the Custom upon which this Law is grounded, was in use among all the barbarous Nations; and he shews by three Examples, it was observed as often as there was occasion, in the Line of the *Merovingian Kings*, which he calls the First Line of



of our barbarous Kings. Nay, he adds, it was continued as a Law in the Second Line; which, however, is not true, as I have observed in the Beginning of this Part. Need there any more? Nay, was there need of so much, to settle the Earl of *Poitou's* Right, and consequently that of all the Kings his Successors, who have worn the Crown of *France* in exclusion of the Female Sex, upon an immovable Foundation? Father *Daniel*, as much surprized as he is at the Liberty, not to say the Rashness, with which *du Haillan* speaks of the Salick Law, does however sufficiently set forth his Innocence in relation to the Right of *Philip* the Tall; since he makes him acknowledge, the Succession belonged to that Prince upon another account, by the ancient Custom of the Countrey. Upon another account; that is, without any regard had to the Article of the Salick Law.

Had that old Historian said, In those Days they had not yet heard of any Salick Law of any kind whatever, he would indeed have been very much mistaken; but his Mistake would not have amounted to a *Liberty*, much less deserved to be called a *Rashness*. At the most, we could only wonder, that one of *du Haillan's* Understanding should † be ignorant of a Fact of which there are so many good Proofs. But 'tis plain, he allows, there were Salick Laws in general. I have shewn, that he makes express mention of them in more than one Place; that he quotes the Chapter *de Alodiis*; and lastly, that he says, *Philip the Tall, to serve his*

† Father *Daniel* (who is an excellent Judge) makes great Encomiums upon him.

his turn, made use of these Words in the *Salick and Ripuary Laws of the ancient Francks, Let not Women inherit the Salick Lands*. So that when he said, *Many affirm the Salick Law had never been heard of before, he must necessarily have taken Salick Law namely, and by way of distinction according to the common Acceptation of that Title ever since those days; that is to say, for a certain written Law, which regulating the Succession to the Crown of France, excludes the Daughters, and confines it wholly to the Male Issue*. He says upon this Head, that this Article of the *Salick and Ripuary Laws* of the ancient *Francks, That Women should not inherit the Salick Lands*, is to regulate the Succession of the Male Line in all Generations and Families, not particularly those of Kingdoms.— And that makes no mention of the Crown of *France*: For he adds he, *Pharamond* never thought of that, in regard he never came on this side, nor had any right here.

Is there any thing in this Opinion, for which *du Haillan* deserves to be charged with using too great Liberty, or being rash, and even called a bad Writer? If he had deserved such Treatment, he would suffer, at least, in very good Company. I have in the Beginning of these Remarks taken notice of several Authors, who say plainly that the *Salick Law*, taken for the Exclusion of the Daughters from the Crown, was not a written Law, but a Law of Custom. That of necessity signifies and supposes, that the Sixth Article of the Chapter *de Alodius*, in the Collection of the *Salick Laws*, ought not to be regarded as a Law for the particular Regulation of the Succession of the Crown of *France*: For if the

were not the Case, how could we say with *Me-  
raï*, That when *Lewis Hutin's* Son died, the  
Succession of the Male Issue to the Crown, was  
not established by any written Law; with *M.  
Gendre*, that no Law, at least, no written Law,  
had excluded the Princeesses of the Blood; or  
with the Author of the *Method for studying History*,  
That the Salick Law did not pass into a Law, till  
the Reign of *Philip the Tall*. To speak after  
this manner, and at the same time acknowledge  
the Existence of the Sixth Article of the Chap-  
ter de *Aladiis*, before that Prince came to the  
Throne; a Man must necessarily be convinced,  
his Article was not intended to regulate the  
Succession to the Crown.

It would even be a hard matter to discover  
any considerable Difference, upon this Subject,  
between *du Haillan*, and Father *Daniel*, who is  
one that censures him. “† Many (says he) talk  
and hear others speak of the Salick Law,  
without knowing well what it means; there  
is a vulgar Prejudice about it, which is, that  
this Law refers only or chiefly (observe these  
Words, or chiefly) to the Right of the Crown  
of France, by determining the Qualifications  
of those who may lay Claim to it, and this  
Opinion is false in several Points.

“Of Seventy one Articles which make this  
Law, there are only Three or Four Lines of  
the Sixty second, which can relate to that  
Matter, nor do they particularly refer (*N.B.*)  
to the Succession of the Male Line to the  
Crown, but belong generally to all Noble Fa-  
milies; whose Right, in that respect they  
“re-



“ regulate, as well as that of the Royal Family;  
 “ The Words are these; *As for the Salick Land,*  
 “ *let no Female have any Share in that Inheritance;*  
 “ *but let all go to the Male Issue.* By the *Salick*  
 “ *Land*, was meant the Estates of the Nobility;  
 “ and according to some, all Lands reduced by  
 “ Conquest, such as were almost all those under  
 “ the Monarchy of *France*, on this side the *Rhine*.  
 “ The occasion of this vulgar Notion upon  
 “ this Subject, was the great Dispute formerly  
 “ about the Succession of the Crown of *France*,  
 “ between *Philip* Earl of *Valois*, and *Edward* III.  
 “ King of *England*, upon the Death of *Charles*  
 “ the Handsome. — These Two Princes  
 “ Pretensions were examin'd in an Assembly of  
 “ the Nobility of *France*, who by Virtue of that  
 “ Article of the *Salick* Law, decided in Favour  
 “ of *Philip de Valois*.

*Du Haillan* says all this exactly. He confesses,  
 these Words, *The Female Sex shall not inherit the*  
*Salick Land*, make an Article of the *Salick* and  
*Ripuary* Laws of the Ancient *Franks*: But he  
 would have it understood to relate to the Male  
 Issue of all Generations and Families, not parti-  
 cularly to the Royal Blood, which is the very  
 Notion entertain'd by *Father Daniel*. Here's a  
 nother Point in which they agree; *Du Haillan*  
 says also, † *Edward* did not know how to main-  
 tain his Right so well, but that *Philip* got into  
 the Throne by *Virtue of the Salick Law*, assisted  
 by the Power and Favour of the People of  
*France*, or supported by an ancient Custom of the  
*Country*.

M. le Gendre would be far more liable to these  
 Ob-

\* Etat. &c. Fol. 196. towards the End.

Objections, than *du Haillan*. " 'Tis an inveterate  
 " Prejudice (says he) to believe there is any  
 " exprefs Article in that Law, which excludes  
 " the Daughters and Female Sex from inheriting  
 " the Crown. Of Seventy one Articles which  
 " compose that Law, there are only Four or  
 " Five Lines relating to that matter: *As to*  
 " *what regards the Salick Land*, says the Sixth  
 " Article of the Sixty second Chapter, *let no Fe-*  
 " *male have any share in the Inheritance, but let all*  
 " *go to the Male Issue.* By the Salick Land was  
 " understood Noblemens Estates, or rather Lands  
 " subdued by Conquest, such as those possess'd  
 " by the *Franks* on this side the *Rhine*. That,  
 " perhaps, which has given occasion for this  
 " common Mistake, is, that it was in Virtue of  
 " this Article, or rather (N.B.) of a Custom as  
 " old as the Kingdom it self, that upon the  
 " Death of *Charles* the Handsome, the States of  
 " France adjudg'd the Crown to King *Philip de*  
 " *Valois*.

This Fragment is in a manner copied from *Father Daniel*; however, there are these two Differences; first, this famous Jesuit says, the Judgment in favour of *Philip*, was given in an Assembly of the Lords only; whereas *M. le Gendre* attributes it to States; as *Father Daniel* also did in his First Edition. Secondly, and which is far more material for me, Whereas *Father Daniel* says, the Decision was with great reason made in favour of *Philip de Valois*, by virtue of the sixth Article of the 62d Chapter of the *Salick Law*; *M. le Gendre* on the other hand, says, that Prince's Right was acknowledged, rather in pursuance of the ancient Custom of the Kingdom, than of the Article of the *Salick Law*. This Amendment,

rather, makes it very evident, he does not lay much stress upon the Article *de Alodiis*. 'Tis easily perceiv'd, he could not have express'd himself after this manner, had he been of opinion that Article, either in part or wholly was intended to govern the Succession of the Crown. For is it not manifest, a Written Law is ever of greater force and more regarded than a Law which has no other Foundation than Custom? And, no doubt, this was the reason why *Philip's* Ministers were willing to apply the sixth Article of the Chapter *de Alodiis* to his Case. Since therefore *M. le Gendre* allows the Custom to have greater weight and efficacy than the Article, he plainly shews his Opinion, that 'twas never intended to exclude the Female Sex from the Royalty: Nay farther, he says freely, that before *Philip* the Tall, nothing but ancient Custom had excluded the Princesses of the Blood; and that there was no Law for it, at least no written Law.

But methinks, Father *Daniel* and *M. le Gendre* are something mistaken in their Chronology, by ascribing the Rise of the Vulgar Error and inveterate Prejudice which they refuse, to the Judgment pass'd in favour of *Philip de Valois*. According to my Thoughts, it would have been more regular, to have given it the Date of *Philip* the Tall's Accession. He was the first who produced the Text of the *Salick Law*, and got it the Sanction of the Nobles of the Realm, as instituted to govern the Succession to the Crown. The Author of the *Method for studying History* would be of my mind, since he says in the Place I have twice quoted, The *Salick Law* pass'd into a Law in the Reign of *Philip* the Tall.

Thus



Thus I have shewn, if *du Haillan* is liable to be censur'd, Father *Daniel*, who is one that has undertaken him, deserves it no less; and I say as much by *M. de Vertot*. "The *Salick Law* (says he p. 339.) "seems to relate only to the "Succession and Partition of the Salick Lands "belonging to private Families: But it has "since been extended even to the Order which "is to be observed in the Succession to the "Crown. Some Authors have thought this a "forc'd Application." He is not of the same Opinion; but says, however, the *Salick Law* seems to relate only to the Succession and Partition of the Salick Lands amongst the Children of private Families. This alone is saying a great deal. But he says moreover in plain terms, that this Law has since been extended even to the Order to be observed in the Succession to the Crown. Is not this a Confession, that the latter Addition of Power to this Law was not included in the first Intention; at least, that it was not understood so at the time of its first Institution. "I confess (says he again in the last Paragraph of his Dissertation) "as I have already said, this Collection of "Laws published by our first Kings, seems to be "only designed to regulate the Order of private Succession amongst the Franks and Salians. But it "must also be allowed, that from the same "Laws there is a necessary Consequence to be "drawn for the Kingdom itself; which being "in its nature perfectly Salick, conquer'd by the "Head of the *Salians*, and the most noble and "excellent Fief of the Salick Lands, if one may "make use of such an Expression, the Crown "of such a Kingdom, whether it be in pursu-  
ance

“ance of the *Salick Law*, or a Custom of a  
 “more ancient Date, cannot be inherited but  
 “only by the Male Issue of the Family in pos-  
 “session, as hath been all along practised for a-  
 “bove 1300 Years.

From hence it follows, that the Text of the  
*Salick Law* taken in it self, and in the strict  
 sense, does not confine the Succession of the  
 Crown to the Male Issue only of the Royal Fa-  
 mily; since in the bottom 'twas made for no o-  
 ther purpose than to regulate private Successi-  
 ons amongst the *Francks* and *Salians*; so that it  
 cannot be *extended* to the Succession of the King-  
 dom, but by way of *Consequence*. In vain M. *de*  
*Vertot* insists upon the Necessity of this Confe-  
 quence. I have shewn elsewhere, this manner  
 of arguing is indeed very plausible, but not at  
 all concluding. It would be so in things merely  
 Moral or Physical; but not at all in Political  
 Matters. A thousand and a thousand Examples  
 prove this way of Consequence to be insuffi-  
 cient and defective; because in such sort of mat-  
 ters, which in the main are discretionary, it hap-  
 pens we often stop at a certain Point; when, if  
 we would consider them thoroughly, we might,  
 or at least ought to go greater Lengths. Ca-  
 price has often a great share in it.

Now let any one compare the Positions of *du*  
*Hailan* and M. *de Vertot*. There will be no real  
 Difference found either in their Principles or  
 Proofs: so that the latter, instead of writing to  
 refute or criticize upon the other, ought on the  
 contrary to have employ'd his Pen in his defence  
 and vindication; since, after all, he does not advance  
 any thing himself which is not to be found in  
 that old Historian, the Examples of *Atbalarick*  
 and

and *Theodatus* excepted. If any one has reason to fall out with him, certainly it should not be such a *Frenchman* as *M. de Vertot* is. But an *Englishman*, or any other disinterested Person, could be in the right to call *du Haillan* a partial, assembling and unfaithful Writer in favour of the Kings of *France*, from the Reign of *Edward III.* King of *England*. 'Tis visible, he set the Pretensions of that Prince, of glorious and immortal Memory, designedly in a false Light. He disguised and represented them quite otherwise than they really were, in order to make them appear false and absurd, by eluding and concealing what they were truly grounded upon, as I think I have made out in an unanswerable manner.

The End of the SECOND PART.



PART





## PART III.



On the Three Instances of the *Sauvage* which *M. de Vertot* produces out of the first Family of the Kings of *France*, he adds three more out of the Third by which it sufficiently appears the second could not furnish him with any, as I have observed. Thus, after having said, that the Crown, which under the third Race went from Father to Son, till the Death of the young King *John*, Son of *Lewis Hutin*, passed over to the Collateral Branch in the Person of *Philip* Earl of † *Poitou*, the Elder *Lewis*'s two younger Brothers, he goes on thus:—“ This Order of succession in the Royal Family was for the first time troubled by the Claim of Princess *Clemence*, Daughter of *Lewis*”

† *Philip* the Handsome left three Sons, who came the Crown successively, viz. *Lewis Hutin*, *Philip* the Tall, and *Charles* the Handsome. *Mezerai* is guilty of a very gross Inadvertency in this matter. He says, a Daughter of the Earl of *Burgundy*, named *Jane*, was married to *Philip*, the King's Eldest Son, then in the Cradle; and his Sister *Blanche* to the Second, named *Charles*. Upon *Philip*

*Hutin*, who blaz'd abroad (fit e<sup>clater</sup>) her Pretensions to the Crown". The Obscurity of this Passage puzzled me for a while. By this Order in the *Regal Succession*, nothing can be meant but the Order whereby the Succession goes to the Collateral Branch, for want of Successors in the direct Line. But the Pretensions of *Lewis Hutin's* Daughter, did not trouble that Order, for they caus'd no alteration in it: Yet this is the true Notion of the Word *troubling*, in respect of the Order of Succession; such Order cannot be said to be troubled, till it is altered, and the Succession has fall'n into another Channel: Now notwithstanding the Pretensions of the young Princess, the Succession held its Ordinary Course, in default of Male Issue in the direct Line, and pass'd to the next Male in the Collateral. In my Opinion, *M. de Vertot* would have said, that Order was contested, disputed, oppos'd, for the first time, by the Pretensions of the Daughter of *Lewis Hutin*.

Besides, his Pen has mistaken that Princess's Name, which was *Jane*, Daughter of *Margaret of Burgundy*, *Lewis's* first Wife. *Clemence* was the Name of his second Wife, whom he left big, and who was afterwards deliver'd of a Posthumous Child, that lived but Twenty Days, at most, for Historians differ in that particular.

Lastly, The Princess *Jane* was so very young, that one cannot well say she blaz'd abroad her Pretensions to the Crown which she laid claim to. She could scarce be Nine Years old when her Father died; and must have wanted considerably of it, if *Lewis Hutin* lived but Twenty two Years, as *M. le Gendre* has happen'd to say, without considering that his Calculation makes the

the second Brother a Year older than the first *Philip* the Tall, he says, died at the Age of Twenty eight, after having Reigned five Years. It must be then at the Age of Twenty three that he succeeded his elder Brother *Lewis*, whom he makes die at Twenty two. *Mezerai* says, that *Lewis* died in his Twenty eighth Year; and I find by *Turquet's* History of *Spain*, that *Prince*, who was King of *Navarre* in Right of his Mother, did not marry, at soonest, before the Year 1306, so that his Daughter could be no more than Nine Years old in 1316. when he died. 'Tis true, *M. de Vertot's* style seems in this to agree with that of *du Haillan*, who says she had a mind, by the Persuasion of her Uncle on the Mother's side, to lay claim to the Crown. But *Mezerai* is more exact, "The Friends and Relations" (says he) of the little Princess, especially "Eudes Duke of Burgundy, were upon the Watch," pretending the Crown belonged to her, in case "the Off-spring of Queen *Clemence* should not do well." He says also, that after the Death of the young King *John*, the Duke of *Burgundy*, Uncle to Princess *Jane*, claim'd in her Name.

I believe it will not be disagreeable to find here a curious *Anecdote* relating to King *John*, which a Friend has been so kind as to communicate to me. "Being at *Rome* in the Year 1712, "I ran over an *Italian* Manuscript, compos'd "in order to prove, that *John* Son of *Lewis* "Hutin, and *Clemence* Daughter of *Charles Martel* "King of *Hungary*, did not die a few Days after his Birth, as the *French* Historians tell us: "To the best of my Remembrance the Substance of that Piece, which was thought by "some Learned Men at *Rome*, to be well writ-  
" ten,



" ten, and as well supported as the Nature of  
 " the Fact would allow, is this ; The Queen  
 " being in great Apprehensions for the new-born  
 " Child, thought it the best way to take the  
 " Advantage of an Opportunity which offer'd  
 " to save his Life, at the Expence of his losing  
 " the Crown. The Nurse's Child happening to  
 " die, *Clemence* gave out it was *John* : and the  
 " young King was put into the Hands of a *Sien-*  
 " *nois*, who was not, however, let into the Se-  
 " cret. This *Italian* carried him into his own  
 " Countrey, and having adopted him, left him  
 " Heir to his Name and Estate. The Queen  
 " upon her Death-Bed revealed the whole Mat-  
 " ter to a Monk, with a Design he should tell it  
 " to *John* ; but whether through Fear, or what-  
 " ever other Motive, the Monk retain'd the Secret  
 " to his Death-sickness, and then unburthen'd him-  
 " self to a Friend, who being either more Con-  
 " sciencious or Courageous, went to *Italy*, and  
 " discover'd what he had been intrusted withal.  
 " After that, *John* publishing to the World  
 " what he thought himself to be, made several  
 " fruitless Applications for Succour to the Prin-  
 " ces of the Time, particularly to the King of  
 " *Hungary*, his near Relation, who howsoever  
 " well-inclin'd, was too much taken up by his  
 " own Affairs, to be able to do any thing to the  
 " Purpose, towards re-establishing him upon  
 " the Throne of *France*. However, *John* did  
 " not omit to leave the Memory of his Preten-  
 " sions registred in all the Documents of his Fa-  
 " mily, and his Children did the same. This is  
 " what the Author of this Manuscript makes ap-  
 " pear by well-attested Extracts taken out of the  
 " Registers and Monuments of *Sienna*.

If *Mexerai* and other Historians are right in attributing the Death of *Lewis Hutin* to a violent Poison given him by an unknown Hand, the fear Queen *Clemence* was under for her Son's Life, was but too well grounded. However, it seems to me very incredible she should resolve so suddenly as in Eight or Twenty Days to take so desperate a Party as she is made to do in the *Italian Manuscript*; she could not be so very fearful as she is represented in that Adventure, since, according to Father *Daniel*, she had the Courage to list her self in the Duke of *Burgundy's* Faction for her Neice, against *Philip* the Tall. Besides, how came it to pass she should say nothing of an Affair of that Importance, either after the Death of that King, or of *Charles* the Handsome, whom she survived some Months? Had she not a very proper Opportunity to discover it, during the Dispute between *Edward* III. King of *England*, and *Philip de Valois*, upon the Succession to the Crown of *France*? Lastly, Is it likely *John* should not only leave his Pretensions registred in the Writings of the Family, but also make application to the Princes of that time for Assistance, and that there should not remain the least sign of it in any of the Histories of those Potentates to whom he address'd himself? Can it possibly be, that not one of the many Letters he must have wrote to the several Courts whose favour he implor'd, should be preserv'd?

As for the Extracts of the Registers and Monuments of *Sienna*, we ought to know what they are, in order to make any just Conjecture from them. Suppose there had lived at that time a whimsical Fellow, who was possess'd with the belief of being King *John*, and consequently

took

took that Title upon him in Publick Acts; this would have been sufficient to contrive a Romance, and father it upon the Registers of Sienna; for Publick Notaries allow and give every one the Title and Quality they think fit to assume. If any Monument or Publick Act of the Town it self should be shewn, it would be a quite different case; but in all appearance there never was any such thing. Could this have been a secret to the Kings of France? Would they not have complained of it, and express'd their Resentment? And could all this have happen'd without some mention of it in History? For my part, I am persuaded, the real Death of little King *John*, was the occasion of the Dispute about the Succession between the Princess his Sister, and *Philip* Earl of *Poitou*.

Upon this Dispute, the Dissertation goes on thus, " But *Papire Masson* tells us, the Peers and " Barons of France met at *Paris*. *Mezerai* sup- " poses the States were conven'd, and that it " was there determin'd, that the Salick Law, " and the Custom inviolably observed by the " French, did exclude the Daughters from the " Crown". This Account, in my Mind, is not clear enough; there seems to be this Difference between *Papire Masson* and *Mezerai*, that whereas the first makes the Peers and Barons assemble at *Paris*, the other convenes the States. Yet *Mezerai* allows of the first Assembly; but gives us to understand, that besides, the States were likewise call'd together, unless he confounds one with the other; I shall return to this Point hereafter: What I would principally observe here, is, that this Historian does not say, it was determin'd by the Assembly, that the Salick Law



and the Custom inviolably observed by the French, excluded the Daughters from the Crown; at least I find nothing more in the Abridgment of *Mezerai*, for I have not the large History, then a plain Oath, not to acknowledge any other King but Philip and his Heirs \* Male, excluding the Daughters. Methinks, when an Author is quoted, he should not be made to say any thing more than he really does; allowing every one the Advantage of making such Observations as he can, of which the Readers will be able to judge, when they see exactly in what the Authority produced consists.

This Passage of *Mezerai* is very obscure, and fit to shew with how much reason he has been blamed for his manner of writing. These are his own Words; "The Estates assembled at *Paris*, where were the greatest part of the Lords, the Representatives of the Corporations and Towns, and especially the Burgeesses and University of *Paris*, took an Oath before the Chancellor, (*Peter d'Arabley*, afterwards Cardinal) not to acknowledge any other for King, than Philip and his Heirs Male, excluding the Daughters." There is no question to be made, but he means the General States. Will he say then that the Deputies of the Towns were there? But to what purpose did he take notice of this Circumstance? Can such Assemblies be held without those † Deputies? Did the Burgeesses and Univer-

\* Philip had at that time a Son, who died a few Days after, in the beginning of Lent. Father *Daniel*.

† According to Father *Daniel*, France was first represented by the Three Bodies, now called the Three Estates, in the Year 1356. under the Reign of King *John*. That which is call'd the Third State, had not before appear'd

University of Paris, especially, attend at the Assembly of the States? In which, says he, the greatest part of the Lords, and Deputies of the Corporations and Towns, and particularly the Burgeses and University of Paris, were present. There is no likelihood of it. Does he mean (as is more reasonable to suppose from the nature of the Thing, altho' the Construction will not bear it) that whilst the States were sitting, amongst whom were the greatest part of the Lords, that is, the Chief Men of the Kingdom, the Deputies of the Corporations and Towns, and especially the Burgeses and University of Paris took an Oath? &c. This is what *Giles* intimates in his Chronicle, "At that time (says he) *Peter d'Arrablay* was Chancellor of France, before whom the greatest part of the Lords and Nobles of France appear'd, and protested not to acknowledge any other King than the said *Philip*, and the Heirs Male of his Body, || if he should have any; in which the Burgeses and University of Paris joined." But if it were so, it's surprizing *Mezerai* should not place the Nobles amongst those who took that Oath. Father *Daniel* says they all did: 'Tis true, that four or five Lines below, he adds, "The Doctors and Masters of the University generally approved of the Oath; but whether it was not requir'd of them, or for some other Reason not taken notice of, they did not swear." In this he varies from *Mezerai* and *Giles*, who say the University took the Oath. Again he differs

on such occasions, as part of the Body of the States, authorized to give their Votes in Publick Debates. Tom. 2. col. 548.

|| He forgot *Philip* had a Child at that time.

differs in this; *Mezerai* says, the Oath was taken before the Chancellor *Peter d'Arrablay*. *Peter d'Arrablay* then was Chancellor at that time, which is also particularly observed by *Giles*. But *Father Daniel* says, he had been Chancellor under *Philip* the Handsome, which Expression implies he was not so after the Expiration of that Reign \*. However, 'tis certain he was made Chancellor in 1316. as *M. le Gendre* mentions in his History of the Great Officers, &c. in the Third Volume of the Edition in Folio; 'tis not to be doubted but he was advanced to that Honour by *Lewis Hutin*, after *Stephen de Morvillars* who enjoy'd it in the Year 1315. A third Difference is, that *Mezerai* says, *Peter d'Arrablay* was made Cardinal after the Assembly. *M. le Gendre* says likewise, it was in 1317. at the earnest Suit of *Philip* the Tall, for whom he had done very signal Services: *D'Arrablay*, adds he, was one of those who had chiefly contributed towards maintaining of *Philip* upon the Throne, and breaking of the Faction that favour'd the only Daughter of *Lewis Hutin*. On the other hand, in *Father Daniel's* History, as well as *Spondeus's* Annals, we find him already a Cardinal. I make no question but the two latter are in the right, because I perceive in *du Chesne's* History of the Popes, *Peter d'Arrablay* Chancellor of France, was one of the Eight Cardinals whom || *John XXII.* elected Pope *August* the seventh, 1316. created on

\* The Office of Chancellor of France, was not in those Days given for Life, as it is now.

|| This was *James Doussa*, Son of a Shoemaker of *Caloris*. The Cardinals not agreeing in the Election of a Pope, consented to accept of whomsoever *James* should nominate, and he named himself.



on the Fast of the Advent of that same Year; and consequently some Weeks before the Assembly of the Great Men and Peers. Here is a fourth Difference. *Mezerai* mentions the Oath to be taken whilst the States were sitting; and *Father Daniel*, in the time of the Assembly, which was about the Purification. With how much reason does *La Motte le Vayer* assert the Uncertainty of History, in a Treatise written by him for that purpose?

I have said, *Mezerai*, as well as *Papire Masson*, makes mention of this Assembly. Nevertheless *Philip* was already in possession of the Crown, the Assembly did nothing more than confirm and acknowledge him in that Possession. *Mezerai* adds, that on the Ninth of *January* he was consecrated at *Rheims*; whereas he does not date the Assembly of the Peers and Great Men till about the Feast of the Purification. This is another very obscure Passage: "The Great Men of the Kingdom (says that Historian) assembled in Parliament about the Feast of the Purification, confirmed the Right of the Heirs Male, and gave Judgment in favour of *Philip*, who with a numerous Retinue went to be consecrated at *Rheims* on the 9th of *January*, the Gates of the Town being shut for fear of any Opposition." Whoever should read this Relation, without knowing the Times of the two Festivals therein mentioned, would believe the Ceremony of *Philip's* Consecration followed the Decision of the Great Men and Peers assembled in Parliament; and by consequence, that the Feast of the Purification was before the 9th of *January*; a *Chinese* would understand it thus. What would it have cost

cost *Mezerai* to have said, *who with a numerous Retinue, was gone to be crowned at Rheims on the 9th of January?* Or rather, would it not have been better to relate the two Facts in their natural Order?

It appears by the Relation of *Mezerai* and all other Historians I know of, except † *M. Brinvillie*, that *Philip*, without waiting till the Crown was adjudg'd him, seized upon it by way of Anticipation, in getting himself consecrated by his own Authority. I don't think he had the Folly to believe, the Oil of the miraculous Vial was of sufficient virtue to make him King *ex opere operato*, as we say. He was not of a Complexion to be so fond of that fine Present from Heaven, as *M. de Vertot* is pleased to represent it; as if he had been one of the Knights of the Holy Vial. He has wrote a Dissertation in defence of the Fabulous Story concerning it, which immediately follows that under examination, and which makes a strange Contrast, in the *Memoirs of Literature, taken from the Register of the Royal Academy of Inscriptions and Polite Learning, &c.* 'Tis not my Business to determine whether in this last Dissertation his Heart went along with his Hand. All I know, is, that the warmest Advocates for such kind of Shams, are often those who ridicule them most; Witness this Passage of *Naudæana*, p. 102. "The Jesuit "*Melchior Inchoffer* has publish'd a Book, entitled "*led*

† He says in his *Methodical Abridgment of the History of France*, that *Philip* was acknowledged King by the States after young *Jehn* died, on the 25th of November 1316, and that he was crown'd six Weeks after upon the *Epiphany*. *M. du Pin* crowns him on the same Day; which shews another Difference about the Date of his Coronation.

“ led *Veritas vindicata*, touching a Letter which  
 “ the People of *Messina* in *Sicily*, say, was writ-  
 “ ten and sent to them by the *Virgin Mary*.  
 “ And when I alledged several Arguments to  
 “ prove that Letter was forged by the Inhabi-  
 “ tants of *Messina*, he told me, he knew all that  
 “ as well as I; and that all he had said of it in  
 “ his Book, was only to gratifie and obey his  
 “ Superiours, who had laid that Injunction upon  
 “ him; but after all, he did not believe one  
 “ Word in the Letter. Yet this is the way Er-  
 “ rors and Abuses spread themselves over the  
 “ World; and after this manner the simple-  
 “ hearted are continually deceived.”

At least, it will not be laid to the charge of  
 our Famous Author, if for the future we do not  
 believe this celebrated Vial was *given*, and even  
 brought by God, taking his Words in a strict  
 fence: For he has been pleas'd to alledge, with-  
 out any sign of Doubt or Distrust, the Judgment  
 of a Monk, whom he qualifies with the fine  
 Title of a *devout Votary*; and who, not satisfied  
 that an Angel should bring it, *fairly resolves* (these  
 are *M. de Vertot's* Words) *it was the Holy Ghost in*  
*Person under the Shape of a Dove*. He adds, This  
*devout Votary* was *Aimonius*, a Monk of the Abbey  
 of *Fleury* upon the *Loire*, who flourished in the 9th  
 Century. If that be so, he arrived to a very uncom-  
 mon and extraordinary Age, since he was still  
 living in the Beginning of the Eleventh. We  
 must not confound him with another Monk of  
 the same Name belonging to the Abbey of *St.*  
*Germain des Prez*; for it was the latter who lived  
 in the 9th Century.

*M. de Vertot's* Zeal for the Holy Vial is so much  
 the more remarkable, in that several Authors of

great

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great consideration look upon it as deserving little Credit; amongst others, is the President *de Thou*. Certainly the President *Fauchet* had no great Opinion of it. “† ‘Tis very much (says he) that Gregory Archbishop of *Tours*, who was born but forty Years at farthest after *Clotus* was baptized, shou’d forget the Miracle of the Holy Vial.” He adds a little lower, “As a Miracle once received, gives birth to another, they add, that an Angel brought *Clotus* a blue Shield sew’d with Flower de Luces of Gold to wear it instead of his own, which was green, with three Toads or Frogs; or Argent, with three Diadems Gules, according to *Æmilius*.” *Fauchet* shews afterwards, the Cheat of this second Miracle. Father *Petau* speaks of that of the Holy Vial after such a manner, as ’tis plain he gave it no credit. I may say the same of the Abbot of *St. Remy* and Father *le Coindre*, without running any great hazard of being contradicted. *Mezerai* speaks of it very ironically; and Father *Daniel* cannot better shew the little account he makes of that Incident, than in not vouchsafing to take notice of it in his History of *Clotus*, following therein the Example of Father *Turpin*, also a Jesuit, and the Bishop of *Meaux*. He shews by this Silence that he looks upon it as one of the Facts, of which in his Preface he says, an Author ought not to make the least mention, not even by taking notice he doubts of the Truth of them. *M. le Gendre* falls pretty bluntly upon that Subject in the Beginning of the First Edition of his History of *France*. He handles the Holy Vial there as if

† Antiq. &c. L. 3. ch. 18.

he would break it to pieces. But in the Second Edition he fingers it more tenderly. Perhaps a View of this Difference may not be unacceptable in this place.

*First Edition.*

It is reported by a far more venerable and ancient Historian, that the Ecclesiastical Officer who carried the Holy Chrism, not being able to come up time enough because of the Throng, a Dove in the same Instant carried a Vial full of Liquor in her Bill; and as soon as she had put it into the hands of *St. Remy*, disappeared. Others, without reflecting, add, that all our Kings have been anointed with this Oil.

[*Not one of the first Line was.*] *Pepin*, Founder of the second, is the first who thought to be sacred, to make himself more respected. As much as we ought to admire and reverence such Miracles as are well attested, so much Caution

*New Edition.*

It is reported by a far more venerable and ancient Historian (*Hincmar Archbishop of Rheims*) who, from what he had heard say, and gather'd out of the old Chronicles, composed an History of the Life of *St. Remy*, that the Ecclesiastical Person, whose Office it was to hold the Holy Chrism, with which the Bishop was going to anoint the new Christian, not being able to come up time enough, because of the Throng, a Dove, to supply his place, carried a Vial of Liquor in his Bill; and as soon as she had put it into the hands of *St. Remy*, disappear'd. *Gregory de Tours*, who liv'd soon after *Clovis*, and who seems to take pleasure in giving a florid Description of

*First Edition.*

tion and Prudence ought we to make use of in not blindly believing, those which have no other Foundation than the Fancy of certain Zealots, who make no scruple to invent them. *Gregory de Tours*, as credulous as any Man living, makes no mention of the Holy Vial, although he seems to take pleasure in describing, and that in the most florid Terms, the chief

Circumstances of *Clovis's* Christening. *Gregory* lived in the time of that Prince's Grandchildren. None of our Historians, down to the Reign of *Charles* the Bald, say any thing of that Miracle. The first time it was mention'd, was *three hundred and sixty Years after*, and then it was upon the credit of an old History, which for a long time had been quite buried in Obscurity. When

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† This Observation by *M. le Gendre* puts me in mind of a very good Remark in that Excellent Treatise, *De la Restitution des Grands*, in 1665, without *the Printers Name*, "If this Maxim, That 'tis not lawful to do evil for Religion's sake, had been follow'd by the Church, we should not have had so many *false and fabulous Miracles*, which have been sow'd among the People, under pretence of advancing the Glory of God; as, many things prejudicial to the Publick, have been introduced, under pretence of serving the Prince and Government.



Authors that are contemporary, or at least, the most ancient, concur in their Silence about any notable Event, 'tis left to the Reader to think what Credit such old Stories deserve.

I very much question, whether in this Point the second Edition will be so well approved of as the first, amongst reasonable Persons, and such as are not bias'd by human Regards, to favour Superstition, and even something that's much more horrible than bare Superstition. There is no Conscience so hardned, as not to be wounded with Grief, when phantastical Objects have a sort of Veneration paid them, which would be very blame-worthy, altho' they had all the Reality in the World. 'Tis making ones self accessary to so criminal and sacrilegious an Abuse, not to do all one can to put a stop to its Progress.

However, M. de Vertot is not yet arriv'd at the degree of an *Adept* in relation to the Holy Vial; at least, his Faith in that respect has not attained to the *Fulness of Perfection*: For he has not said a Word of the Miracle that has preserved the Liquor in its primitive Quantity, for more than Twelve Centuries, notwithstanding the Use of it in consecrating so many Kings. Father † *Bussièr* assure us, that it has been used at above sixty Coronations; yet for all that has suffer'd no Diminution! *Nunquam apparuit sic; such a Miracle as this was never seen in Israel.* Besides the Continuation of the same Quantity,

† *In unctione ampulla delata celitus prodigium fuit omnibus oculis, cujus liquor effusus plus quam sexages nulla ope humana resistitur, regni cui conditus est durationem fovet aut sequitur.* Flosc. Hist. p. 109. Venetiis 1672.

ty, the long Duration of this incorruptible Liquor, has given it the highest Advantages over the consecrated Elements of the Eucharist, altho' it be pretended that there is no other Substance in them than the Body and Blood of our Lord. There is no consecrated Host or Wine which does not corrupt and waste away in a very little space of time. Here is then Miracle upon Miracle; the whole, in truth, depends upon our good Opinion of the Integrity of the Keepers of this Holy Vial; and God knows what a Dependance that is. Besides, when Father *Bussiere* wrote that it had served at more than sixty Coronations, he exceeded the Truth prodigiously. 'Tis hard to know distinctly what Kings were consecrated before *Pepin*; but even those were not at *Rheims*. Of the two last Families several have been crowned at other Places, as *M. le \* Thou* says upon occasion of the Coronation of *Henry the Great*: And this is what may be seen more at large in *du † Chelne*.

Bishop *Godeau*, who seems to carry his Credulity for the Holy Vial to the highest pitch, || has also said, without Exception, that all *Clovis's* Successors were anointed, as he was, with the Heavenly Chrism. However, it does not appear, any of his Descendants were anointed with it. So that *Clovis*, perhaps, was the only King of the *Merovingian* Race who received that Honour. I know not whether that Famous Bishop and great Wit banter'd, when he added, "I fanſie, no ‡ *Frenchman* will be permitted

\* Lib. 108. towards the End.

† Antiq. &c. l. 2. Tr. 2. p. 373. . .

|| About the Year 495. §. 67.

‡ Cardinal *du Perron* went much farther: He said, no

ted to dispute against so great a Privilege granted to their Princes, and of which Tradition has so well establish'd the Belief in the Minds of the People." But sure I am, saith *Daniel*, *M. le Gendre* and many more, would laugh at his Simplicity, if they could believe he was in earnest. Whether designedly, or not, he has discover'd the greatest Motive for engaging the *French* in the defence of the Holy Vial. 'Tis not the strength of Evidence, but an old prejudice entertained for a politick Reason, by a national Interest in the keeping it up; because they find in it so divine a *Relievo* to the Glory of the Kings of *France*. As if History did not make them shine enough, without having recourse to Fabulous Ornaments. The greater our Zeal is for our Princes, the more cautious should we be not to give them a false Lustre, for fear of exposing them to Ridicule.

As for *Philip* the Tall, whatever he thought of the † Holy Vial at *Rheims*, he foresaw, without doubt, his Consecration would very much con-

French Catholick could call the History of the Holy Vial in question, without shewing himself impious to his Countrey and Religion. *Perroniana*, p. 8. Who, after this, would believe what is said of him, that he was at *Tours* about the Immortality of the Soul, and even the existence of God?

† There is another at *Tours*, with which *Henry IV.* was pointed at *Chartres*, and is older by a whole Century than that at *Rheims*. The Publick would reap far greater benefit by it, if it were communicated, and had the same Effect, as upon *St. Martin* Bishop of *Tours*. An Angel, says *Spondeus*, made use of it to heal him of the wounds he got by falling down Stairs, according to the Testimony of *Sulpicius Severus*, &c. upon the Year



conduce towards getting the Crown adjudg'd him by the Peers and Great Men of the Kingdom when they should meet, according to the *English Maxim*, which holds true in all Countries, *That of twelve Points of the Law, Possession is worth eleven.* He fancied also, that Pompous Ceremony would not fail of procuring him the Voice of the People; who looking upon the Oil of the Holy Vial as the Fruit of some Tree in Paradise, could never be persuaded that Providence would suffer one Drop of it to be profan'd in the Coronation of any Usurper of the Crown. The Quantity, I have mentioned, all they mix with the Holy Chrism, and 'tis applied with the Thumb, as *du Cbesne* says, to several different Parts of the Body, making the Sign of the Cross, *That after such exterior Ceremony, the People may not be ignorant of the Authority and Sovereign Power God bestows on the King; and how to avoid, as the Plague and Destruction of the State, such as want that distinguishing Mark.* Red & Antiq. 1. 2. *Traité* 2. p. 414.

*Philip* then got himself Crown'd in a haste. And farther, lest the Ceremony should be interrupted by any Opposition or Protestation, which might weaken Validity, he took care the Gates of the Tower should be shut, and no one admitted that was not on his side; however, not to renounce the Formalities of Right, in making use of the means of Fact, he summon'd together the Peers and Great Men of the Kingdom: This Assembly was held about the Feast of the Purification that is to say, above three Weeks after the Coronation of the new King. Pray observe here how Authors differ; *Papire Masson* speaks on

only of this Assembly of the Peers and Great Men; I quote him after M. de Vertot. *Mezerai* will have it, that there was also a Meeting of the States. *Spondeus* mentions the States only, and gives them the same Date *Mezerai* fixes for the Assembly of Peers and Great Men: I thought to have found this Matter clear'd up by Father *Daniel* or M. *le Gendre*, but this latter takes notice only of the Assembly of Great Men and Peers; nevertheless, he says in the Beginning of the History of *Philip de Valois*, that an express Law was made in favour of the Male Issue, by the States held at *Paris*, after the Death of *Lewis Hutin*. Father *Daniel* expresses himself in such ambiguous Terms, as neither denote clearly and precisely either the one or the other; "The King (says he, at the Beginning of his History of *Philip the Tall*) called together an Assembly on the Feast of the Purification, at which a great Number of the Nobility, almost all the Prelates, and the most considerable Burghesses of *Paris* were present, the University was also called." One does not know what Name to give such an Assembly. Is it the Parliament? But we find many in it who have no Right to sit in Parliament, as a great Number of the Nobility, the Burghesses of *Paris*, and the University. Is it the Assembly of the States? But would they have admitted the most considerable Burghesses and University of *Paris*? I could have wish'd that able Writer, who knows so well and practises the Rules of Precision, had not been negligent in a Circumstance where it was material enough to have observed them.

If I durst give my Opinion, I should say there was no other Assembly than that of the Peers and Great Men in Parliament held about the Feast of the Purification: 'Tis very likely, that the King being sure of the Burgeſſes of *Paris*, and Members of the Univerſity, contriv'd it ſo, that both one and the other ſhould have Admittance; not as being of the Number of Voters, but as *Assiſtants*, to be Witneſſes of what paſſ'd there; and it may be, to contribute by their Countenance, Behaviour and Acclamations, towards the Approbation of his Coronation, in caſe the Members of the Aſſembly had not been ſufficiently determin'd about it. As for the States, there is all the room in the World to believe they were not held afterwards. Is it likely *Philip*, who was already in Poſſeſſion of the Throne, acknowledg'd and confirm'd by an Aſſembly of the Great Men and Peers of the Realm, would call the States together to put his Right to the Crown again into Debate? *Paſquier* makes no mention of the States; but ſays, the Kingdom was declared by Parliament to belong to *Philip* the Tall. *Liv. 2. ch. 14.* towards the End.

*M. Brianville*, who is for the meeting of the States upon this occaſion, does not only ſay, they declared King *Philip's* Coronation valid, by virtue of the Salick Law, but adds, The Power of that Law was ſolemnly confirm'd in the Preſence of the *Pope's Legate*. This laſt Circumſtance, too much to the Advantage of the See of *Rome*, deſerves to be taken notice of, and the rather becauſe it is falſe; but left it ſhould detain me too long, it ſhall be the Subject of a Second Addition to theſe Remarks.



I return then to *M. de Vertot* ; when he produces a Second Instance of the Salick Law in the third Race, in the Person of *Charles* the Handsome, he only mentions it, nor was there any thing more to be said, since there happen'd no Dispute about it. But in his Relation, and passing to the Third Instance, he mistakes the Number of the Daughters of *Philip* and *Charles*. "*Philip* the Tall (says he) left only *three* Daughters, and the Crown, after his Death, went without Com-petition to *Charles* Earl of *March*, known in our History by the Name of *Charles* the Handsome." That Prince, as well as the Two Kings his Brethren, had but *one* Daughter. 'Tis strange Authors should differ so much about the Daughters of these two last Kings. *Pasquier* and *du Chesne* agree in their Reckoning and Division, with *M. de Vertot* on the contrary. *Du Verdier* in his History of *Spain*, says, that *Charles* died, leaving *no Children*. According to *de Serres* he left two Daughters, and his Wife big of a third. *Mezerai* and Father *Daniel* give him Two, and *Philip* Three. *M. le Gendre* does not fix the Number of *Philip's* Daughters ; and says, as *M. Brianville*, that *Charles* had no more by his Third Wife, than that Child of which he left her big. But the Truth is this ; *Philip* the Tall left *four* Daughters ; *du Hailan* in his State of *France*, names them, *Jane*, *Margaret*, *Mary* and *Blanche* ; indeed in the Beginning of his History of that King, he mentions Three only ; the Eldest, he says, was married to *Eudes* Duke of *Burgundy*, the Second to *Lewis* Grandson of *Robert* Earl of *Flanders* and *Nevers*, and the Third to the Dauphin of *Viennois*. *M. de Brianville* calls the latter *Isabeau*, and Father *Daniel*

niel, *Isabella*; whereas by all others she is nam'd *Mary*. But towards the End of the same History, *du Haillan* adds *Blanche*, who was a Nun, and a few Pages before, he mention'd them all Four. As for *Charles* the Handsome, he left by his Third Wife *Jane d'Evreux*, a Daughter nam'd *Mary*; and that Queen was brought to Bed, a few Days after his Death of another Daughter nam'd *Blanche*, who married *Philip Duke of Orleans*: If then we join to these *Six, Jane* the Daughter *Lewis Hutin*, I shall have shewn, as I engaged, that at the time of the Dispute between *Edward III.* King of *England*, and *Philip de Valois*, there were Seven Princesses, Daughters of the three last Kings. This Detail therefore was material, and even necessary to my Design. Yet there are some *Englisch* † Authors, who have said, That the three Kings, Brethren to *Isabella*, King *Edward's* Mother, left no Children: Into which Mistake they have, no doubt, fallen, by imagining, that it must have been so; because had it been otherwise, they would have been at a loss how to make out *Edward's* Pretensions to the Crown of *France*, for want of knowing how his Right was grounded; which is not only very surprizing, but altogether unpardonable.

*Mezerai* was mistaken when he said, *Mary* Eldest Daughter of *Charles* the Handsome, outlived her Father but a few Years: Father *Daniel* says also, she did not live long. But *Morery* dates her Death Thirteen or Fourteen Years after that of *Charles*, in 1341. in the Article concerning *Jane d'Evreux*; and in the Article concerning

*Charles*

† See *Speed*, *Merrison*, *Medulla Hist. Anglic.* by *Howell*, &c. *Baker* makes meer Nonsense of this matter.

*Charles* the Handsome, as also in that of *Mary*, her Decease is said to have been in 1342. In this he has err'd by much; there is Proof that she liv'd even Nineteen Years longer. This is her Epitaph in the Chapel of our Lady *La Blanche* at *St. Dennis*; "† Here lies Madam *Mary* of France, Daughter of *Charles* King of France " and *Navarre*, by Madam *Jane d'Evreux*; who " died on the Sixth Day of October, in the Year " 1361." Her Sister *Blanche* whose Epitaph joins to hers, died in 1392. 'Tis plain this Disference was the occasion of Dom *Germain Millet's* saying, that *Mary* died young in respect of her Sister; for after all, she lived at least above Thirty five Years.

The Historians have also made several Mistakes about the Wives of *Lewis Hutin* and *Charles* the Handsome. *Du Haillan* has unluckily said in the Passage cited by *M. de Vertot*, that the Earl of *Burgundy* was Uncle by the Mother's side to Princess *Jane*, *Lewis's* Daughter. It had been well if *M. de Vertot* had rectified that mistake. The old Historian would have said as he does in other places, the Duke of *Burgundy*: For it was the Duke, and not the Earl of *Burgundy*, who was Brother to that King's first Wife. *De Serres* calls the second *Constance*, forgetting how a few Lines before he had called her *Clemence*, which was her true Name. \* *Spondeus* having honestly, and without considering, copied *de Serres*, is guilty of the same Blunder. *Froissart*, in the Passage cited by *M. de Vertot*, speaking of *Charles* the Handsome, says, *His first Wife*

† Tresor sacré de St. Denis par Dom *Germain Millet*. 432.

\* Ad ann. 1314. §. 9. 1316. §. 4.



*Wife was one of the finest Women in the World, and was the Earl of Artois's Daughter.* Who would make any difficulty of believing this last Article, upon the Testimony of this Canon, who was a contemporary Author, and whose † Chronicles

† Contemporary Authors, generally speaking, are the best Springs of History: Nevertheless what Falsities do they give out, sometimes designedly, and at others thro' Mistake? For example; to what but Dishonesty, can one impute that, which the Famous Count *de Buissi Rabutin* has had the Boldness to say in his History of *Lewis XIV.* That the Count (now Duke) of *Lausun*, who commanded the French Auxiliaries in King *James's* Army in *Ireland*, won the Battle at the *Boyne*? This is a notorious Falshood. There are several other Mistakes upon the same Subject, in the anonymous History of that Prince, which is otherwise well wrote, and has been lately added together with that of *Lewis XIII.* to *Mezerai's* Chronological Abridgment. “King *William*, says that Author, made himself Master of the strongest Places in the Kingdom “of *Ireland*, which the Battle of the *Boyne* entirely “reduced to his Obedience.” In this Passage there are two Facts which are not true: The first, that King *William* was already Master of all the strong Places in *Ireland*; and the second, that the Battle of the *Boyne* compleated the Reduction of that Kingdom. *Ireland* did not entirely submit till the Year following, by the Capitulation of *Limerick*. “It cost Duke *Schomberg* and Mr. *Walcker* the Clergyman their Lives, says this anonymous History, being both kill'd near the Person of that Monarch; he was also wounded himself, a Cannon-Ball having grazed upon his Shoulders, and another carried off one of his Boots. But the Sight of his own Blood “serving only to encourage him, &c.” The Duke was not killed near the King. That Prince was not wounded at the Passage; it was the Day before, in viewing the Enemy, and looking out for the best Fords. And why the Shoulders, since only one was hurt? I observe, this new Chronologist has forgotten that famous Sea-Victory obtained by Mr. *Russel*, at present Earl of *Orford*, over the Count *de Tourville*, in 1692.

nicles are reckoned the best Fountain of the History of his time, notwithstanding his speaking so favourably of the *English*, has got him the Name of a mercenary Writer in *France*? However, he was mistaken: The Wife of *Charles* named *Blanche*, was the Daughter of the Earl of *Burgundy*. Her Mother *Maud* was Countess of *Artois* in her own Right, as we have seen before; and this is what has deceived *Froissart*. Besides, this Earl of *Burgundy*, which all our Historians call *Otbo*, *Otbelin*, or *Otbenin*, had quite a different Name; for it was *Hugo*. *Blanche*, Daughter of the Earl of *Burgundy*, was Sister to *Jane*, *Philip* the Tall's Wife. Now here is their Father's Name, in *Philip* and *Jane's* Epitaph. "Here lies King *Philip* the Tall, King of *France* and *Navarre*, Son of *Philip* the Hand-some; who died *January* the Third, 1321. "And the Heart of Queen *Jane* his Consort, "Daughter of the Noble Prince Count *Hugo* of *Burgundy*, who died the Twenty first of *January*, 1329." To me it seems impossible all our Historians should be deceiv'd in the Name of this Earl; nor can it be conceiv'd he should have a wrong Name given him in his Epitaph. Could he be named *Hugo* and *Otbelin* both? Lastly, *de Serres* calls *Charles* the Hand-some's last Wife *Margaret*, whereas 'tis most certain her Name was *Jane*. Thus we have at every turn an Instance how distrustful we ought to be of Historians. These kind of Examples are in themselves of very little Consequence; but the reason of my taking notice of them, is, that they are of service to shew how much care is ne-

\* *Le Tresor Sacré de St. Denis*, &c. P. 277.

necessary in examining all sorts of Authors, when their Authority is made use of. Without this Precaution, there is ever great danger of being deceiv'd.

To make good what I have said, here is another Proof not altogether foreign to the Case, since it relates to a Fact of Importance concerning the Reign of *Philip* the Tall, or *Charles* the Handsome. When the Treaty of Alliance between the Kings of *France* and *Scotland* was renewed, they added a very material Article, which Father † *Daniel* relates in these Terms; “ If it should happen “ that either of the two Kings should die, and “ leave the Right of Inheritance of the Crown “ uncertain, in such case the Lawful Heir shall “ be adjudged, by the Chief Lords of the two “ Kingdoms, who shall declare to whom the “ Kingdom belongs; after which, the other “ King shall not only hinder all Tyrants from “ usurping the Kingdom lately in Dispute, but “ if need be, shall Personally with a great Power defend the Lawful Heir, &c. The Mar- gin quotes a Manuscript of *Bethune*, in the Royal Library, Vol. mark'd 9687. This is a Spring I cannot go to, but however, should be very glad to know if that Historian had any credible Authority for mentioning the renewing of the Alliance, in the Year 1324. and for attributing the Addition made to it at that time, to the wife and singular Foresight of *Charles* the Handsome. After having said at the End of the History of that Prince, that his Widow being deliver'd of a Daughter, the Crown belong'd to *Philip de Valois*, he adds, “ But still *Edward* op- posed

† Tom, 2. col. 436.



"pos'd him. Charles bad foreseen them; and for  
 "that reason, when the Alliance between the  
 "Kings of France and Scotland was renewed, in  
 "1324. there was an Addition made to the an-  
 "cient Treaties of that which follows, If it  
 "should happen, &c.

That which makes me more inquisitive about  
 this Point, is the Difference between Father Da-  
 niel and Mezerau concerning the Date and De-  
 sign of the Addition: The latter places it in  
 1318. under the Reign of Philip the Tall:  
 "The great danger (says he) France had been  
 "in after the Death of Hutin, on account of a  
 "doubtful Suecession, and the cruel Wars that  
 "had wasted Scotland upon almost a like occa-  
 "sion, after the Death of King Alexander IV. [it  
 "was Alexander III.] "were the Cause of adding  
 "this conditional Article, when the Treaty of  
 "Alliance between the two Crowns came to be  
 "renewed, &c." His manner of expressing  
 himself upon this Particular, shews plainly e-  
 nough, he has taken it from Spondeus, who  
 owns he had it from the Scots, the French Au-  
 thors not having made the least mention of it.  
 So that, properly speaking, the Dispute lies be-  
 tween Spondeus and Father Daniel. I could have  
 wish'd, this Piece of History, so material in it  
 self, and, which besides, may some time or o-  
 ther be of service to the two Nations (since  
 they have never retracted that Agreement) had  
 not escaped M. le Gendre; and that he had clea-  
 red up this Difference between Father Daniel  
 and Spondeus, whom Mezerau has followed.

As Spondeus quotes the 14th Book of the Histo-  
 ry of Scotland by Boetbius, I have examined the  
 Book, and find, three French Historians have o-  
 mitted

mitted some curious Circumstances, which are, \* that to render the Agreement between the two Nations perpetual, they sealed it with the Sacrament, and a solemn Oath. Moreover, they got it approv'd by the Pope. What a pity was it to see the Kings of *France* and *Scotland* begging their Treaties might have the Approbation of the Bishop of *Rome*, who of right had as little Authority in their Dominions as the Bishop of *Man* has in the Great *Mogul's* Empire. Nevertheless there was this Clause added, that let the Pope do what he would, it should not be in his power to release the two Nations from that Oath. I could not discover from *Boetius* the Date of this Agreement; but it seems to concur with that in *Father Daniel*; because immediately after he mentions *Edward* the Second's Imprisonment by *Queen Isabella* his Wife, which happen'd in the Reign of *Charles* the Handsome. *Buchanan* says the same thing; but mangles this Point: For he relates the New Article added to the Old Aliances; as if it regarded † *Scotland* alone: Whereas it was reciprocally for both Kingdoms. 'Tis very likely, the Manuscript of *Betbune* quoted by *Father Daniel*, may have given some light into the date of the Addition.

I

\* *Quæ ut apud posteros etiam rata essent, sumpto Sacrosancto Christi corpore, jurejurando ea utrinque confirmârunt, & à Pontifice probanda curârunt. Adjectum præterea ne unquam ab eo jurejurando, per Pontificem Romanum liberari possent, aut si id esset factum irritum foret.* Scot. Hist. l. 14. fol. 306, 307.

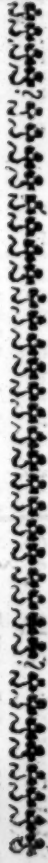
† *Ad veteres condiciones adjectum, ut si quando de Successu ro Rege apud Scotos ambigeretur, ea controversia ab Ordinum consilio decideretur: qui illic legitimis suffragiis Rex esset declaratus, eum auctoritate & armis, si opus esset, Gallus tueretur.* Rer. Scot. lib. 8.

I don't know whether this famous Historian owes to that Manuscript what He relates, how *Charles* the Handsome foresaw the Opposition King *Edward III.* afterwards made to *Philip de Valois's* Pretensions to the Succession, and for that reason procur'd the additional Agreement before mentioned, to the ancient Treaties between *Scotland* and *France*. But I think, 'tis giving *Charles* Credit for more Sagacity than he had a right to. There does not seem to be the least likelihood, that a King like him, at the Age of Thirty Years only, should think of Death, or of means to prevent the Disputes which might arise between the Princes of his Blood, in case he should die without Male Issue. I should fancies my self nearer the Truth, if I should say, he minded nothing else than how to prevent that Case ever happening, by leaving a good Number of such Children. It was with this View, that soon after his Accession to the Crown he contracted a second Marriage with *Mary of Luxemburg*. She brought him a Son, " who (says *Froissart*) died very young, and the " Lady presently after, at *Issoudun* in *Berry*, both " very suspiciously, of which certain Persons " were secretly accused." *Mezerai* says, the Mother died before the Son; but in that *du Haillan* and Father *Daniel* follow the contemporary Author. *Mezerai* and Father *Daniel* say, the Queen miscarried. The latter varies from *du Haillan* and *Froissart*, by insinuating that she did not die so very quickly after the Child. Always Variations! *Charles* lost no time in endeavouring to get Sons: he married the third time, *Jane d'Evreux*, his Cousin-German, the same Year in which Father *Daniel* makes him renew the Alliance



ance with *Scotland*, in 1324. By her he had one Daughter; and when he died, left her seven months gone with Child. All this makes it reasonable to conclude, that he was quite otherwise employed, than in amusing himself with the Thoughts how to prevent the possible Opposition of *Edward*, at that time a Child about twelve Years old only, to the Pretensions of *Philip de Valois* to the Crown of *France*, in case he (*Charles*) should die without Issue-Male; and the more, because at that time there was so little room to believe that would be the Case. Death is seldom or never thought of at such a distance in the Flower of Youth, especially by a King, and when the Business is nothing more than to secure the Succession to a Collateral Branch.

*The End of the THIRD PART.*





## PART IV.



THE Subject I am going upon, is in the main the most considerable and moving Part of the Dissertation I have undertaken to examine. It concerns the Third Instance, wherein the *Salick Law* was exemplified in the Third Line of the Kings of France, in the \* Person of Philip Earl of Valois, to the Exclusion of Edward III. King of England. "Charles the Handsome (says M. de Vertot, p. 345.) as well as the Two Kings his Brothers, had but one Daughter. The Crown, in this Vacancy belonged to Philip de Valois, Son of Charles Earl of Valois, Brother to Philip the Handsome, Father of the Three last Kings. Philip, besides these Three Sons, had a Daughter called " "

\* Mezerai is mistaken, in beginning his History of Francis the First after this manner: "This is the third time in the Capetien Family, that the Scepter, for want of a Male Issue in a direct Line, hath passed to the Collateral Branch." He ought to have said, the fifth time: For it had happened before in the same Family. First, in Philip the Tall. Secondly, in Charles the Handsome. Thirdly, in Philip de Valois; and Fourthly, in Lewis XII.

" led \* *Isabella*, married to *Edward II.* King of  
 " *England*, from whom sprang *Edward III.* This  
 " young Prince soon claimed the Crown, as  
 " being *Isabella's* Son. The Englishman did  
 " not directly attack the *Salick Law*, or that  
 " ancient Custom of admitting none but the  
 " Male Issue of the House in Possession; but  
 " he supposed, that being himself of the Male  
 " Sex, neither the Exclusion of the Queen his  
 " Mother; nor even the Words of the *Salick*  
 " *Law* could do him any prejudice; and that  
 " being Nephew to the late King, to whom  
 " *Philip de Valois* was but Cousin-German, he  
 " had besides the Agreement of the Sex, the  
 " Advantage of being nearer of kin by one De-  
 " gree."

To do the Author justice, he sets forth *Ed-  
 ward's* Pretensions with as much Perspicuity and  
 Exactness as Brevity, excepting one Word,  
 which I only take notice of for the greater Ac-  
 curacy. The Englishman, says he, did not di-  
 rectly attack the *Salick Law*; *Directly* is a Word  
 too much. I have shewn at large in the First  
 Part, that *Edward* did not attack the *Salick Law*  
 directly nor indirectly; and that it was no less  
 his own Concern, than the Interest of *Philip de  
 Valois*, to maintain it. 'Twas their common  
 Bottom: Neither one nor the other could have  
 any shadow of Right to the Crown of *France*,  
 but in consequence of this Principle, That the  
 Female Sex was excluded from it, since at that  
 time there were living Daughters of every one  
 of

\* *De Serres*, so remarkably fruitful in Blunders, forget-  
 ting he call'd her *Isabella*, gives her the Name of *Margaret*  
 in two other Places, and makes her Aunt of *Charles* the  
 Handsome; whereas she was his Sister.



of the Three last Kings, the Queen of *England's* Brothers : Nay, there were no less than Seven of them, as I have made appear towards the End of the Third Part ; for *Lewis Hutin* left *One*, *Philip* the Tall *Four*, and *Charles* the Handsome *Two*. See Pages 91, 92.

Of all the Six Instances produc'd in *M. de Vertot's* Dissertation, this is beyond Comparison the most material, and the only one that can concern any Body at this present time. It is no matter whether the Daughters of *Childibert*, *Cherebert* and *Gontran*, were justly or unjustly laid aside. The Descendant's of the Daughter of *Lewis*, surnam'd *Hutin*, have for more than an Age past been in Possession of the Crown, from which Custom, having the Force of a Law, had excluded her, by reason of her Sex. After *Charles* the Handsome, she was Queen of *Navarre* in her own Right, and became the Stock of all the Kings and Queens that have Reign'd there since. Thus her Posterity came to the Crown of *France* in the Person of *Henry IV.* one of her Descendants by that King's Mother, *Jane* of *Albret* Queen of *Navarre*. As for the Daughters of *Philip* the Tall and *Charles* the Handsome, their Line is either totally extinct, or the Remainder incorporated into the House now reigning. The Five first Instances had no unhappy Influence upon the State ; but the Sixth gave birth to a Quarrel which brought on most bloody Wars, and often reduced *France* to the last Gasps ; the Remembrance whereof continues fresh to this Day, and in all likelihood will never be forgotten. King *Edward's* Successors have ever since, as he did, taken the Title of Kings of *France*, with the Arms of that Kingdom ;

dom; nor is there any room to believe there will ever be a Monarch of Great Britain willing to fulfil the Promise, 'tis said, James II. made in his Retreat to Lewis XIV. in relation to this Point of Honour.

This is what makes me wonder that M. de Vertot says nothing positively of the very grounds of the Dispute between Edward and Philip de Valois. Would it have been too hard a Task for him to refute the Arguments of the *Englishman*, as he calls him, after he had so clearly sum'm'd up the Substance of them? Was it through Impossibility of succeeding, that laying aside the Point of Right, he confines himself to the Matter of Fact only, and is satisfy'd with a bare Relation out of Froissart, how the Peers and Barons cut the Knot of a Question of that Consequence; and which, as the Dissertation says, *attracted the Eyes of all Europe*? There is no need to transcribe the Passage from that Historian, it will suffice to say, that one finds in it, First, The Three Matches of Charles the Handsome, who died without Male Issue, but leaving his Queen big with Child. Secondly, The Disposition he made on his Death-Bed, by appointing Philip de Valois Regent of the Kingdom, in case his Wife should have a Son, and referring to the Great Men to determine whose the Crown should be, in case she should be brought to Bed of a Daughter. In the third Place, the Meeting of the Peers and Barons after the Queen had brought a Daughter, and their Judgment in favour of the Earl of Valois. " They assembled at Paris as soon as they could, and with one Consent gave the Kingdom to Philip de Valois, and excluded both the Queen of England, Sister to the late King Charles "

“ *les* and the King her Son; because, as they  
 “ said, the Crown of *France* was of too great  
 “ Dignity to be inherited by the Female Sex.

I have too good an Opinion of *M. de Vertot*,  
 to think him capable of relishing an Argument  
 so little to the Purpose, the Question not being,  
 Whether a Woman should succeed to the Crown  
 of *France*? and moreover, so frivolous in it self.  
 I am persuaded, he cannot fancy that those Monarchies which admit the Female Sex to their Crowns, ought to yield in *Dignity* to those which exclude them; therefore it seems very odd, he has not subjoin'd, if he could, something more substantial to the Reason given by the *French* Peers for their Decision; and which may be, *Froissart* brings in but in Raillery. For my part, who think the Right was on *Edward's* side, I shall shew upon what Foundation I go.

Not only the Text of the *Salick Law* could not prejudice King *Edward*, as *M. de Vertot* is contented to make that Prince say; but even that very Text declares it self necessarily in his Favour. *The next Male shall succeed*, says that Law in so many Words; it is express'd in general Terms, without fixing to any particular degree of Proximity; without specifying that the next Male requir'd, must be in a descent from Male to Male. Since then it does not determine in this particular Sence, 'tis but natural to understand it according to the common acceptation of the Words, *The next Male*, whether by the Male or Female side, without Distinction. Who is it, that by the next Male Kindred of a Man that has no Sons, but a Grandson by a Daughter, would not understand that Grandson? Who could ever think to look for the next Male

P in



in a Collateral Person, such as a Brother, Nephew or Cousin, unless he was bound by Custom, or some Law or Sentence, having by way of Presumption the force of a Law? But there was nothing of all this against *Edward*.

No Custom in opposition to his Right. Baron *Puffendorf* reports, that not one single Example, anterior to this Dispute, can be produced; that a Son of a King of *France's* Brother, as *Philip de Valois* was, had ever been admitted to the succession, to the prejudice of a Grandson by a Daughter, as King *Edward* was. This is a very material Point, and 'tis pretty extraordinary, that Father *Daniel* should venture to say, "That by a Custom immemorial of the Nation, " the Children of the Daughters of *France*, had " never been look'd upon as presumptive Heirs " to the Crown; and this Custom (adds he very boldly) " shews the Sence of the Salick Law". Before this famous Historian could have any Pretence to speak with this Assurance, he ought to have brought some Instances prior to *Edward*; but he quotes none. We have just now seen that *Puffendorf* affirms, not one single Instance could be given in the Case before us. I have run over all the Collateral Successions of the First and Second Families; (for as for the Third, till *Philip* the Tall, the Crown always descended from Father to Son;) and I do not find in any of those Successions, that the nearest of Kin by the Female side, was ever excluded to make way for a more distant Descendant from Male to Male. Whenever, therefore, Father *Daniel*, or or any other for him, shall have given any Proof of what he advances, we shall be bound to believe him; but till then, every just and unbiass'd

unbias'd Reader will be surpriz'd at his supposing so *gratis* a Custom immemorial, in order to conclude from thence, that it plainly demonstrates the Sence of the *Salick Law*, in opposition to King *Edward's* Pretensions.

To say with Justice, that by Custom immemorial such a thing has not been done in a Kingdom, 'tis not sufficient, that it has not been practis'd; but the Practice must have been refused, when the Occasion offer'd. For Example; No Woman had reigned in *England*, from the time of the *Romans* till the Death of *Henry I.* commonly called *Beauclerk* for his Learning. If any one at that time would have disput'd the Natural Right of Succession, with the † *Empress Maud* Countess of *Anjou*, and Eldest Daughter to *Henry I.* who died without Male Issue; could he with any decency have argued, as *F. Daniel* does, *That by a Custom immemorial of the English Nation the Daughters of England had never been lock'd upon as presumptive Heiresses of the Crown?* He would, without doubt, have been answered, that what he said amounted to nothing, unless he could prove that the Daughters of *England* had been excluded from the Crown, when by Birth-right they ought to have

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† *Stephen* Earl of *Blois*, and Son of King *Henry's* Sister, found means to get into the Throne, by bringing People to swear that King *Henry* had disinherited his Daughter, altho' he had caus'd her to be acknowledged as Heiress to him in his Life-time. This occasion'd a long Civil War between *Maud* and *Steven*; at length the Matter was compromised thus, That *Steven*, who had lost his Son *Englace*, should enjoy the Crown for his Life, and make *Henry* his Successor; which was faithfully perform'd; so that *Henry* came to the Crown after *Steven's* Death, who was his Uncle, according to the Use of *Bretany*, as the French say, *à la mode de Bretagne*.

have enjoy'd it, had not their Sex stood in the way. *Edward* had no Instances to produce in his Favour, no more than *Philip de Valois*, yet for all that, they were not upon an Equality, there was this great Difference to *Edward's* Advantage, that by Birth he was invested with the Title of *The next Male*. If then it was pretended, notwithstanding his Birth, that Title did not belong to him in the Sence of the Law, and with respect to the Succession, because Custom contradicted it, some Examples ought according to all Rules, to be given where the Princes born of the Daughters of *France*, had been deprived of the Right of succeeding in Cases like his; or if not specifically the same, yet of the same kind: so that as to this Point, *Edward* was upon much better terms than *Philip*. He was naturally invested with the Right inherent in the first Prince of the Blood, being so by his Birth. If therefore *Philip* had a Mind to divest him of that Right, by a Custom which defeated it, he ought to have proved such Custom, by Instances adapted to the Point in Dispute.

In default of such Custom, was there any Law, or Sentence carrying the force of a Law, by way of Presumption, which could interpret the *Salick Law* to King *Edward's* Prejudice? No, there is not the least Sign of any. When the Daughter of *Lewis*, Surnam'd *Hutin*, claim'd the Crown, her Uncle put the Custom in Execution against her, which had been follow'd for excluding the Daughters as often as a King happen'd to die without Issue-Male; as may be seen in the Histories of *Childebert*, *Cberchert* and *Gontran*. The Earl of *Poitou* alledged farther the Article of *Alodis* in the *Salick Law*. This Article



Article was admitted, whether rightly or no, is not to our present purpose; admitted it was, as a Rule for governing the Succession to the Crown, at least by way of Application and Consequence: Thus Custom and the *Salick Law* set the Brother of *Lewis Hutin* upon the Throne, passing by his Daughter; because Custom and that Law, whether well or ill understood or applied, concurr'd or were thought to concur, in establishing the Right of the Males, and excluding the Female Sex. But it went no farther; there was nothing said of the manner how the Person ought to be descended from the Royal Blood, who is to be look'd upon as the next Male, and by consequence invested with the Right of Succession according to the Terms of the *Salick Law*. This Question was still in its first State *in integro*, as we say: There had been nothing determin'd, that could do against King *Edward's* Case.

It was therefore this Prince's Right to succeed, since he was the *next Male*. This Qualification naturally belong'd to him, and was apparently supported by the Civil Law, without Custom, Law, or Sentence supplying the Place of a Law, or forming any Presumption that could withstand or destroy it. The Civil Law, and whatever we call the Law of Nature, have nothing to do in matters that have been once decided by a National Law: But as long as that is silent, the other Two are to be observed. Now the National Law of *France* had determined nothing that could make against *Edward*. It follows then there was nothing that could hinder him from enjoying a Right which came to him by Nature, and was back'd by the Civil Laws:

Laws: For who is so blind, as not to discern, That both Nature and the Civil Laws teach us to look upon *Edward* as nearer of kin to *Philip* the Handsom, being his Grandson, than *Philip de Valois*, who was only his Nephew: He was consequently more nearly related to the late King *Charles* the Handsome, being his Nephew; whereas *Philip de Valois* was only his Cousin-German.

All that is here brought against *Edward*, may be reduced to this; That the Exclusion of the Daughters of *France* implies that of their Children, tho' of the Masculine Sex. "The King of *England* (says *Father Daniel*) could have no Right to the Crown of *France* by his Mother, that Princess neither having, nor being capable of having any." "How (says *M. le Gen-dre*) how can the Mother, said they, transmit to her Children a Right which she never had her self?" This is what the Civilian *Baldus* expresses after this manner: "If the King of *France's* Daughter, by a reasonable Custom amongst the *French*, does not succeed to the Crown, the King of *England* her Son, can have no Claim to it, since † there cannot be greater Virtue in the Effect, than what proceeds from the influencing Power of the Cause."

This way of reasoning may be concluding in things purely Physical; but is a meer Paralogism in Civil Matters. For Instance; A Foreigner in *England*, altho' he be naturalized, he still remains depriv'd of certain Immunities: But

† *Quia in causato non potest esse plus virtutis quam procedit ab influenti potentia cause.* Spond. ad an. 1328.

But whether naturaliz'd or not, his Children will enjoy them if they are born within the Kingdom. In all Nations an Ideot is incapable of holding an Office hereditary to the Family: But this is no Bar to keep his Son, who may have a sound Understanding, from enjoying it. Now, let this Maxim, *That the Effect cannot have what is not to be found in the Cause*, be applied if it can, to Instances of this kind. The Right of Succession to the Crown of France was inherent in the Blood of the reigning Family, to the Exclusion, however, of the Female Sex. *Edward* had received from his Mother that Blood, which (he being Male) qualified him to succeed, and by consequence transmitted to him the Right of Succession, altho' she had it not her self; because in transmitting that Blood to him, she did not communicate her exclusive Quality, viz. the Female Sex. He was the next Male, which she never was, nor could be. This is what he says in his Letter to the Pope, as I have related it after *Walsingham* in the first Part of these Remarks. p. 23.

A strong Presumption, that before the Decision in favour of *Philip*, the Exclusion of a Son was not necessarily comprehended in that of the Mother, is, that as *Froissart* reports in the Passage quoted by *M. de Vertot*, *Charles* the Handsome freely appointed *Philip* Regent of the Kingdom, if the Child wherewith his Wife was big, should prove a Son. *Meserai* says likewise, it was talk'd, the King had by his Will ordained, that in such a Case *Philip* should be Regent of the Kingdom, and have the Guardianship of the Child. Father *Daniel* expressly confirms what relates to the Regency. But

*Charles*



*Charles* took care not to name *Philip* for his Successor, in case the Queen should have a Daughter. On the contrary, *Froissart* makes that King say on his Death bed, That if the latter happen'd, the Twelve Peers and High Barons of *France* should take Counsel, advise amongst themselves, and confer the Kingdom on whomsoever in Justice it belonged to. Would he after this manner have refer'd the Decision of the Succession to the Peers and Barons, if he had imagin'd, the Exclusion of the Daughters of *France* decreed in favour of his Brother *Philip* the Tall, and since practis'd in his own Person, did indispensibly take in the Exclusion of such Male Issue as should be born of them? Ought he not to have acknowledg'd *Philip* as his Successor, if the Queen should not have a Son? He shew'd enough his good Will to him, by naming him Regent, in case the Posthumous Child should be a Son; and, no doubt, his Inclinations would have been to appoint him his Successor also, if it should happen otherwise, had he been persuaded, that the Exclusion of Women implied that of their Sons, with regard to the Right of inheriting the Crown: For if that were taken for granted, *Philip de Valois* must have succeeded without any more to do.

But setting aside this Presumption, so strong in *Edward's* Favour, there are convincing Proofs of Fact against the Philosophical Principle made use of in opposition to him. They are to be met with in the Examples of *Atbalarick* and *Theodatus*; which I have set forth after *M. de Vertot*, in the First Part. These two *Ostro-gothick* Princes reigned in right of their Birth; one of them as Grandson, the other as Nephew

to the Great *Theodorick*; but were Descendants however of Women excluded from the Crown by reason of their Sex. *Atbalarick* succeeded his Grandfather at the Age of Eight or Ten Years; so that his Mother *Amalasonta*, *Theodorick's* Daughter, was no more than Regent of the Kingdom. After *Atbalarick's* Death, *Theodatus* stept into the Throne, as Son to *Amalasfrida* *Theodorick's* Sister. Here are Two Princesses, *Amalasonta* and *Amalasfrida*, who transmitted to their Sons a Right which they themselves never had. Therefore it is not true, that the Exclusion of the Mother necessarily excludes the Children: The Practice of the *Ostrogoths* demonstrates the contrary. These Instances have so much the greater Weight, that the *French* Writers bring them to prove, the *Goths* never admitted Women to the Royalty, and to shew by that means in general, the Temper of the Barbarous Nations in this respect: From whence they have drawn a Consequence for the ancient *Franks* in particular. According to this way of arguing, made use of by *Paquier, du Chesne* and *M. de Vertot*, as may be seen in the First Part of these Remarks, it must also be said, that the ancient *Franks*, in putting the Daughters of their Kings by the Throne, never designed to deprive the Male Issue of those Daughters; since the History of the *Ostrogoths* shew a quite contrary Practice.

Now, let all the Arguments in favour of *Edward*, Grandson to *Philip* the Handsome, and Nephew of the Three last Kings, be put together, and well consider'd: He was apparently the next Male, and consequently the true Heir, designed by the very Terms of the *Salick Law*, ad-

admitted as a Standard for regulating the Succession ever since the Accession of *Philip* the Tall to the Crown; there having never been either Example, or Law, or Sentence supplying the Place of a Law, and making a Presumption, or, in a Word, any thing that might oppose his Enjoyment of a Right inseparable from the next Male to the Royal Blood. Besides, The last King *Charles* the Handsome was sensible of the strength of *Edward's* Right, since notwithstanding his good Will to *Philip de Valois*, he was unwilling to burthen his Conscience, by acknowledging that Earl for his Successor. Lastly, The King of *England* had the Examples of the *Ostrogoths* on his side. Let all these Particulars be examined with the same Candor and Impartiality, as if it concerned but a *Japanese* Prince; and then let any one judge, whether Father *Daniel* had reason to say, *That Edward knew perfectly well, that his Claims to the Crown of France were very Chimerical.* Tom. 2. Col. 567. *M. le Gendre* does not speak in so satirical and scornful a stile: He contents himself with saying gently, That *Philip's* Right *seemed to be the best*; and does not even scruple to put among the Causes which inclined the Peers to determine in *Philip's* Favour, *his powerful Friends, their Cabals and great Credit.* Could there be occasion for all this, against a Right, the Extravagance of which must have appeared to all the World, had he, whose Business it was to maintain it, known it to be very chimerical? Father *Daniel* will not take it amiss, that I oppose to him Baron *Pufendorf*, whose excellent Works upon the Law of Nature and Nations, shew of what weight his

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Judgment ought to be in Matters of this kind. *M. le Gendre* will not say that *England* feed him well for it, as he does of the Lawyers who gave their Opinion in *Edward's* favour; without reflecting that those who were for *Philip*, were no less liable to the same Reflection: Neither was he one of those Fugitives for Religion, who were forced by cruel Persecutions to sacrifice all that was valuable to them in their own Country for Conscience sake, and so might be suspected of being influenc'd thro' Gratitude or Policy, rather than by the Reasons of manifest Justice, to engage in the Interests of those Nations where Providence had provided them with a favourable Retreat; so far is it from this \* Excellent Writer's being on any Account liable to Suspicion by *France*, that he seems more inclined to favour her than any other Nation, *Sweden* excepted, and yet he determines clearly in favour of *Edward*.

“ † *Philip de Valois* (says he in his Chapter of *France*) “ appealed to the *Salick Law*, which “ excludes the Females from the Succession; but “ on the other Hand, *Edward* without denying “ that Law, pleaded, that it did not extend to “ the Sons born of the Daughters of *France*, and “ it was certain he was nearer a kin to the de- “ ceas'd King, than *Philip*; besides, there could “ not any Precedent be brought, where a Son “ of a King's Daughter had been excluded, to “ admit a Brother's Son: *However, in spite of* “ *all these Reasons, the Estates of France declar'd* Q 2 for

\* See the Praises given him in the *Method for reading History*. Tom. i. p. 64.

† See Translation of his Introduction to History. Ch. 5. § 9.

“ for Philip; partly upon the strong Perswasions of  
 “ Robert Earl of Artois, and partly because they  
 “ did not care France should become Subject to  
 “ England. The States of England (adds he  
 a little after) “ exhorted Edward not to let drop  
 “ his just and well-grounded Pretensions so tamely.  
 He had said before in the Chapter of England,  
 “ Philip de Valois prevailed by the favour of the  
 “ Estates, notwithstanding he was a degree farther  
 “ off, as being but Son to the Brother of  
 “ the late King's Father, under pretence of the  
 “ Salick Law, and out of the hatred they bore  
 “ to a Foreign Sovereign.

This last Article is unquestionably the Reason  
 why Edward was excluded; nay, there are some  
 French Historians who make no scruple of telling  
 us so plainly. “ || Above all other Kings (says  
 “ du Haillan) the French loved and honoured  
 “ this new King, (*Philip de Valois*) saying, he  
 “ was the Revenger of the Affront the Foreign-  
 “ ers design'd to offer the Crown of France, and  
 “ the Restorer of the Salick Law; as he that  
 “ had re-established France in her ancient Pre-  
 “ rogative, by Virtue of the said Law, which  
 “ was the Support of the Liberty and Dignity  
 “ of France; preventing the French, who were  
 “ wont to give Laws and Kings to other Nati-  
 “ ons, from falling under the Yoke, Servitude,  
 “ and Dominion of Foreign Powers. *Mezerai*  
 in plain Terms mentions the Aversion the French  
 had to a Foreign Sovereign, as one of the  
 motives to the decision against Edward; and M.  
*le Gendre*, to crown all the rest, takes notice of  
 their hatred to the English Government. There is  
 no

no doubt then to be made but that *Edward*, Grandson of King *Philip* the Handsome, would have been preferr'd to *Philip*, his Grandfather's Nephew, had he been no more than Earl of *Valois*, and his Competitor King of *England*; without flinging into the Ballance his Personal Merit, which made him so much admir'd, that even the *French* Authors cannot avoid giving him the most glorious Encomiums.

*M. de Vertot* makes some Remarks upon the passage he quotes out of *Froissart*, that do not at all concern the Dispute between *Edward* and *Philip*. He begins them thus; "By this plain, natural, and candid Relation, one may see, the King was oblig'd by the Peers and Barons to put away his first Wife, in hopes of having a Male and Presumptive Heir to the Crown." I shall only take notice of two small Irregularities in the Style of this Expression, a *Male and Presumptive Heir of the Crown*: This Expression, *Male Heir*, methinks, in this Place is very improper; could the Female Sex have inherited *Charles's* Crown, it might have been properly us'd, but even then there must have been a Daughter living at that time. In that Case, the Peers might have press'd the King to take another Wife, out of a desire of having a *Male Heir*; but that Distinction is utterly useless where the Crown is inheritable only by the Male Line. This Impropriety is originally owing to *Froissart*; \* but when the old Word *bair* was chang'd, that of *mâle*, ought to have been suppress'd.

To

\* This Remark is not so well adapted to the *English* as the *French* Tongue.



To this Impropriety the Author adds another of his own, which is that of the Word *presumptive*, out of a desire, says he, of having a *Male and Presumptive Heir* of the Crown. This Term *presumptive* is not rightly placed here, for according to the Definition of it, given by the French Academy, a Presumptive Heir is one who is look'd upon to be the next Heir, but so however, as that he may be excluded by the Intervention of Children. Thus in a *Male-Kingdom*, if one may so call it, as we say a *Male Fief*, the Title of Presumptive Heir is only applicable to a Prince who stands first in the Order of Succession in the Collateral Line; if then *Charles* the Handsome had had a Son, that Son would have been the *absolute* not the *presumptive* Heir of the Crown; for no Child could have come between him and the Crown. In those Kingdoms where Daughters succeed, the Eldest Daughter of the Prince upon the Throne, is no more than *presumptive* Heiress, altho' she has no Brother, so long as one may be born, which would deprive her of the Quality of Heiress. I know a great many confound an Absolute Heir, who is yet only in Expectation of the Succession, with a Presumptive Heir, but 'tis through a habit of speaking without Reflection.

“*Charles* the Handsome (continues M. de Vertot) perceiving he drew near his End, referr'd the Decision of the several Princes Pretensions to the Crown, to the High Barons. The States did not assemble, the Peers and Barons only, determin'd that Matter in favour of *Philip de Valois*.” I make no doubt but he has done better in following *Froissart* upon this Circumstance, as *Spondew*, *Mezerai*, and Father *Daniel* have

have done, than those who mention the States, as *du Haillan, de Serres, Puffendorf, Morey, M. de Brianville,* and *M le Gendre. Nay, du Haillan* formally names a *Solemn Assembly of the Prelates, Nobility and People, which* (adds he) *make the Three Estates.* This is contrary to *Father Daniel's* Opinion, which I have taken notice of in the 76th. Page; he pretends, the States of *France* did not consist of those Three Bodies, till the Reign of *King John*, Son of *Philip de Valois*, who succeeded *Charles* the Handsome. That which makes me apt to believe that the States General were not conven'd upon the Dispute between *Edward* and the Earl of *Valois* about the Right of Succession, is, that *Pasquier* says nothing of it in his Enquiry after the Original of the States General; according to his reckoning, their Beginning, altho' very imperfect, was under *Philip* the Handsome: He recites the occasion; after which, the first Example he produces of a General Assembly of the Three States, properly so called, was not till the Reign of *King John*, at which there was granted an additional Duty upon Salt, call'd *La Gabelle*, first imposed, as he says, by his Father *Philip.* Book 2. ch. 7.

Is it likely *Pasquier*, whose Business it was to write the History of the General States, could be capable of overlooking an Assembly that made the greatest noise, and was the most considerable of the kind, that ever was in the Kingdom of *France*? Were the General States ever called together upon so important an Affair, as the Dispute between the King of *England* and the Earl of *Valois*? I have shewn before, that *Pasquier* might be mistaken, as well as another Man; But here is something particular in this Case,

Case, that makes his silence a very strong Negative Proof; which is, his having *ex professo* examined the History of the General States from their Beginning.

One cannot sufficiently wonder at the difference between Historians upon the nature of an Assembly, which determined a Dispute, by M. de Vertot very justly called, *An Affair of a great moment, and which attracted the Eyes of all Europe*. 'Tis also very surprizing, they should not agree upon the time of that Assembly. Froissart dates it from the Queen's Delivery "Soon after (says he) King Charles dy'd, about Easter, in the Year 1327. (*he is mistaken; for it was on the first of February*)," "Queen Jane was brought to bed of a fine Daughter; "and then the Twelve Peers and Barons assembled at Paris." However, *du Haillan*, de Serres, and M. le Gendre make the States come together whilst the Queen was big, and confer the Regency of the Kingdom, with the Guardianship of her Issue, upon Philip, adjudging the Crown to belong to him, in case the Child should prove a Daughter: so that according to their way of reckoning, he had nothing to do, but take possession of the Throne whenever that should be the Case. *Mexerai* does not cut out so much Work for the Peers and Barons at one time. He assembles them immediately upon Charles's death; and says, they presently conferred the Regency and Guardianship upon Philip: But as to the Succession, according to him, they did not settle it till the Queen was deliver'd: So that he makes two distinct Assemblies. Further *Daniel* follows him; but *Spondens* is of another Opinion quite different from all the former. He



He says, the Peers and Great Men being assembled upon the Dispute between Philip and Edward for the Regency of the Kingdom, scarce had they begun to speak of it, but the Queen was brought to Bed of a Daughter; so that they had nothing left to do, but to settle the Succession. Pray, which of all these are we to believe? They differ likewise about the Day on which

Philip was crowned. *Du Haillan* and *Spondeus* say, that it was on *Trinity-Sunday*, without naming the Day of the Month; *Dom Germain Millet* and *Father Daniel*, say it was on the Twenty seventh of *May*, without naming the Day of the Week; *Mezerai* and *M. Vallemont* say, it was on *Trinity-Sunday*, and the Twenty eighth of *May*; *M. Brianville* says, it was on that Sunday, and *May* the Twenty ninth; according to *Calvisius* it was on *Whitsunday* and the Thirty first of *May*. But *M. Brianville* alone is in the right; for as one may see in *Calvisius*, in the Year 1328. the Golden Number was 18. and the Dominical Letters C.B. Therefore *Easter* fell on the Third of *April*, and consequently *Trinity-Sunday* on the Twenty ninth of *May*. *Calvisius* makes here three Mistakes; setting, 1<sup>st</sup>, the Year 1327. for 1328. not considering the first was ended at *Easter*; 2<sup>dly</sup>, *Whitsunday* for *Trinity-Sunday*; 3<sup>dly</sup>, the 31<sup>st</sup> of *May* for the 29<sup>th</sup>. He quotes the *Annals of Flanders*, which I cannot come at.

Here is the following Part of *M. de Vertot's Reflections* upon the Passage out of *Froissart*. "I leave it to those who shall read these Facts, to draw from them such Consequences as they think fit; I only take notice, that our Peers and Barons being the Defenders of the Crown and its Domain, took it very ill afterwards, that *St. Lewis*, religiously infatuated with  
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" Holy

“ Holy-Land Voyages, should offer to pawn  
 “ Normandy to Henry III. King of England, in  
 “ order to enable him to perform, or at least,  
 “ not to be crossed in that Expedition.

“ *Matthew Paris*, a Contemporary English Historian, (and the best we have for Matters of the 13th Century) reports, that the Great Men of the Kingdom oppos'd it with much Resolution. There was (says this Author) an horrible Murmuring amongst the Nobles, who complained of the King's undertaking such an Affair, without the Knowledge and Consent of all the Baronage.

“ And to shew the Peers are comprehended in that Peerage, or Baronage, the highest Title which in those Days the Nobility affected, he makes Good St. *Lewis*, in a Letter to the King of England upon that Subject, expresses himself thus: || *I wish to God the Twelve Peers of France, and the Baronage were of my Opinion; we should be then united in an indissoluble Band of Friendship.*”

There are several Remarks to be made upon these three short Paragraphs. First, I find an *Anachronism* of near Four score Years. St. *Lewis* was Great Grandfather to *Philip de Valois*; Henry III. was also Great Grandfather to *Edward*. The Passage which the Author had in view, and which he represents as happening *after* the Judgment in favour of *Philip*, given in 1328, was Three score and seventeen Years *before*; for it bears Date in 1252, according to *Matth. Paris*, whom he quotes in the Dissertation. This Mistake is the more remarkable, in that M. de Vertot says, a few Lines after, that he is one of the best Historians for Matters of the 13th Century. And again,

|| *O utinam duodecim Pares Franciæ & Baronagium mihi consentirent, cerè amici essemus indissolubiles.*

again, in the Beginning of the following Dissertation upon the Holy Vial, that *Matthew Paris* lived in the middle of the 13th Century. Now the Dispute between *Edward* and *Philip de Valois* was not till the first Quarter of the 14th Century was fully expir'd.

Secondly, The Author is in the wrong to say, *Lewis* would have pawn'd *Normandy* to *Henry III.* King of *England*: The business was, to restore it absolutely, together with other Countries in *France*, which *Henry* pretended a Right to. The Murmuring of the Great Men proceeded from the Order sent by *St. Lewis* from beyond the Seas, where he was at that time, to make restitution thereof. The *French*, says *Matt. Paris*, gave a bold Answer to their Prince's Order to restore to the King of *England* the Lands on the other side of the Water. *God forbid*, &c.

What I have said concerning the Place where *St. Lewis* was, discovers a third Mistake in the manner of this Author's expressing the Motives which influenc'd that King. "Religiously insatuated," says he, with Holy Land-Voyages, he had a mind to pawn *Normandy* to King *Henry III.* of *England*, in order to raise a Supply to enable him to perform, or at least, not to be cross'd in that Expedition." I have nothing to say to the Religious Infatuation he imputes to *St. Lewis*. I wish, for his sake, every body would take the Jest as well as I do. But I am afraid, he will be put to the necessity of writing such another Dissertation as he has done upon the Holy Vial of *St. Remy*, to atone for the liberty he has taken, of calling that an Infatuation, which the † Gods here below would have to

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† The Popes were the chief Promoters of that In-



be esteemed as divine Zeal, and which, no question, was the great Motive for canonizing *Lewis IX.* Had it not been for these Holy Land-Voyages, of which *M. de Vertot* speaks so Cavalier-like, that Prince, in all likelihood, would have been only in the List of the Kings of *France*, without any other distinguishing Character than his *Number*, or at most, that of *good*, or *pious*; whereas 'tis by means of those Voyages, he is entitled to a Red Letter in the Calendar, and placed in the Catalogue of those, who in the *Roman Church* are look'd upon as Mediators of Intercession, even as a kind of † Redeemers. Their Merits are offer'd to God, to obtain the Effects of his Goodness and Mercy; the \* Sacrifice of the Body and Blood of Jesus Christ is offered up to God in honour of them, in order to obtain their Intercession; they are called upon as Bestowers of all sorts of Graces; their Relicts and Images are religiously worshipped, Vows and Offerings are made unto them, Oaths taken by their Names, and, in a Word, they are to Christians what the tutelar Gods were anciently to the Heathens. Can these divine Effects of Canonization, some will say, be the Reward of an *Infatuation*, however *Religious* it may be called? After all, what is a *Religious*

*fatuation*, and every one knows for what end.

† *Non absurdum erit, si sancti viri Redemptores nostri aliquo modo dicantur.* Bellarm. de indulgentiis, lib. 1. cap. 4. ad finem in Tomo 2.

\* If any one shall say, 'tis an Impossure to celebrate Mass in honour of the Saints, and to obtain their Intercession with God, Let him be anathematized. *Canon of the Council of Trent, Of the Sacrifice of the Mass. Sess. 22.*

ligious Infatuation, but a sort of Religious Folly? Can a sort of Religious Folly then give a Man a Title to Canonization? *M. de Vertot*, I confess, has a great deal of Wit; but I question whether all will be sufficient to help him over these Interrogations. But that is his Business: he may find such Excuses as *he thinks fit*, according to his own Words.

For my part, I shall observe, there is no one, but would judge, the King of *France* intended to strike the bargain with the King of *England*, mentioned by the Author, before his Religious Infatuation set him forward in his Expedition against the Infidels. Now, by the Date I have mention'd, it appears he had then been beyond the Seas four Years; for he set out in 1248. 'Twas from thence he gave Orders for restoring to King *Henry* several Countries, and at the same time made pressing Instances to that Prince to send him powerful Succours, of which he stood in great need, his Army having been defeated, and himself for some time Prisoner. In pursuance of this Order from *Lewis*, Embassadors were dispatch'd to *France* by King *Henry*, to demand the Execution of it, promising on his part to do whatever *Lewis* desir'd or requir'd of him. This was the Occasion, and consequently the time of the horrible *Murmuring* taken notice of by *M. de Vertot*, after *Matth. Paris*. One may see it by the remaining part of the Passage, of which I have here inserted the Beginning. "† How desolate soever, said the Great Men of

† Non placeat Deo ut nostris temporibus adeò sordent *Francia*, mutilata licet plus quàm satis est per Regulum nostrum ignavum & vitiū, jam vilescat, ut Regi *Anglorum* imbelli quod possit resisti resigneetur. Satis diffamamur, satis depauperamur. Et s.

" of the Realm, *France* may be at present,  
 " through the Fault of our pitiful King, whose  
 " Defeat is owing to his little Valour, God  
 " forbid we should add this Dishonour to the  
 " rest, of yielding shamefully to the King of  
 " *England's* Demands, before we are driven to  
 " it by the Fortune of War. We are already  
 " but too much impoverished and despised. In  
 " vain will Queen *Blanche*, led to it by the  
 " weakness of her Sex, and excited by her  
 " Maternal Affection to obtain her Son's Li-  
 " berty, and restore the unhappy Condition of  
 " his Affairs, desire this. Never will the King-  
 " dom of *France* submit to such Conditions.  
 " Never will we consent that the Judgment of  
 " the Twelve Peers, by which the King of  
 " *England's* Pretensions are set aside, and by  
 " which he has been lawfully divested of *Norman-*  
 " *dy*, should be infrin'd and disannulled. Nor shall  
 " that Prince, our Capital Enemy, as long as we  
 " live, ever obtain the rest of his Demands.  
 " Upon which, (*this is M. de Vertot's Quotation*)  
 " there arose a horrible murmuring amongst the  
 " Great Men, who complained of the King's  
 " undertaking such an Affair without the Know-  
 " ledge or Consent of all the Baronage.

A Fourth Mistake is, that M. de Vertot reports,  
 as part of a Letter from *Lewis* to *Henry*, what  
 he told him verbally, in a Personal Conference,  
 and

*velit Domina Blanchia, hoc materno affectu, & muliebri co-*  
*luntate pro Filii sui Liberatione ac prosperitate nunquam Regni*  
*Francorum universitas hoc concedet. Absit enim ut duodecim*  
*Parium Judicium quo justè abjudicatur, & privatur Normannia*  
*cassetur, & pro frivolo habeatur. Nec etiam alia que exigat*  
*Rex Angliæ noster hostis Capitalis, nobis superfluitibus quomodo*  
*libet possidebit. Et factum est, &c.*



and even with a Sigh: *Et suspirans ait, O utinam, &c.*

*Lastly*, Here is a Fifth Mistake, *Lewis's Words I wish to God, &c.* quoted in the Dissertation, are related as having been *written* upon the occasion, when *Matt. Paris* says, there was a horrible murmuring amongst the Great Men. That murmuring related to the Embassy sent by the King of England, in pursuance of *Lewis's* Order, whilst he was in his first Expedition *beyond the Seas*. Now that Embassy was in 1252, but it was two Years after, in 1254, that *Henry* being then the first time at *Paris*, *Lewis* said to him, *virâ voce*, "I wish to God the Twelve Peers and all the Baronage were of my Mind, we should then be united in an indissoluble Band of Friendship."

The Abbot *de Vertot* has thought proper to stop there, in which he has acted *according to his Condition*. This is an Expression used by *Father Daniel* to denote his Profession; but I hope to be excused if mine obliges me to go on, where the Author thought fit to break off. The Truth is, he stopp'd in too fair a way. Our Quarrels, added *Good St. Lewis*, make the Popes insolent, and give them an Opportunity to play the Mad-men, *Discordia nostra fomentum præstat debacchandi Romanis, & materiam superbiendi*. I have given the Word *debacchari* the same Signification as *Madam Dacier* in the First Scene of the Second Act of the *Adelphi*. If I would have used a stronger Term, I might have been countenanced by *M. le Fevre*, that Learned Lady's Father, who translated these Words of *Terence*, *Si satis jam debacchatus es*, if thou hast play'd the Devil long enough. As to the rest, 'tis plain, St.

St. *Lewis* could mean no other by the *Romanis*, than the Popes or the Court of *Rome*, which is the same thing. I doubt very much if the Holy Fathers had been acquainted with this Particular, whether he would have ever tasted of the Saintship, (in the Original *l'Apotbeose*). And indeed, how scandalous is it, that one who has talk'd in that manner of the Heads of the Church, of the Vicars of Jesus Christ, should nevertheless be canoniz'd. Sure I am, that the Popes have as much Right to take away, as to confer Beatification; so who knows but some of them may by Virtue of their Almighty Power degrade St. *Lewis*, for having spoken thus freely and disrespectfully of the Holy See! At least, 'twill not be the first time a Pope has repented of having canoniz'd a Person, and even said, That Person did not deserve it. Here is a touch upon this Subject out of *Menagiana*, Page 191. of the *Amsterdam* Edition; "Count *d'Ollone* used to say, that one of Cardinal *Mazarin's* Stories was, that a Family in *Rome*, of which one had been lately Beatified, having given the Pope some Trouble, he complained, *Questa gente è molto ingrata; io ho beatificato uno de loro Parenti, chi non lo meritavo.*" That a Knight of the Holy Ghost should say to a King when he conferred that Order upon him, Sir, *I am not worthy*; and that the King should answer, *Ob, I know that very well*, as is said of *Henry IV.* is but a laughing Matter: But that a Pope should say, he canoniz'd any one that did not deserve it, in Complaisance to the Family, is the most deplorable thing in the World. How many pretended Saints are there of that Order? Nay, how many are there that never existed? I appeal to

Doctor

Doctor de Launoy, that famous discarder of Saints: he has pull'd more Saints out of Paradise, says *M. de Vigneul Marville*, than Ten Popes have made. The Rector of St. *Eustace* of *Paris*, used to say, Whenever I meet Doctor *de Launoy*, I make him a Bow to the Ground, and talk to him Cap-in-Hand, and with the greatest Submission, so fearful am I lest he should rob me of my St. *Eustace*, who hangs by a Thread. Vol. 1. p. 275. The Rector's Apprehensions were but too well grounded, for *M. de Valois* confesses St. *Eustace*, to be an *unknown* and a very *suspicious Saint*. *Valefiana* p. 48. And speaking of the Eleven Thousand Virgins, says, he cannot conceive how the Doctors of *Sorbonne*, amongst whom there are so many Learned Men, come to suffer that Troop of *Contraband Saints*, to be the Tutelar Patronesses of their Church, p. 49. But why should we divert our selves with jesting upon an Abuse that should draw from us Tears of Blood? Why have not those who are sensible of this, the Glory of God enough at Heart, to cry aloud against so great a Transgression, in order to put an End to it? For our Part, we have but too much reason to say to the *Roman Catholics*, as our Lord did to the *Samaritan Women*, *Ye worship ye know not what, we know what we worship*. John 4. 22.

The Paragraph which follows these Three I have just examin'd, and which concludes the Dissertation, is very material; I have elsewhere occasionally quoted some of the last Lines of it; but here I shall insert the whole: " I do not  
 " relate this Piece of History of St. *Lewis*, after  
 " that of *Froissart*, for any other End than to  
 " shew that the Peers and High Barons were

S  
not



“ not only the Interpreters of the *Salick Law*,  
 “ and by their Rank always Judges of the  
 “ Crown; but also that they had a Right to  
 “ hinder any Province, being alienated from  
 “ it, in the same manner as the *Rachinbours*  
 “ were in the First Line of the *French* Kings, ap-  
 “ pointed as Guardians and Interpreters of the  
 “ *Salick Law*, to prevent any Portion of the  
 “ Salick Lands being given to the Female Sex.  
 “ I must own, as I have said already, the Col-  
 “ lection of Laws published by our Kings, seems  
 “ to have been designed only for regulating the  
 “ Succession of Private Families amongst the  
 “ *Franks* and *Salians*; but it must also be allowed,  
 “ that a necessary Consequence is to be drawn  
 “ in Relation to the whole Kingdom, from these  
 “ very Laws; which being essentially and pure-  
 “ ly Salick, conquered by the Head of the *Salis-*  
 “ *ans*, and the most noble and excellent Fief, (if  
 “ one may make use of that Expression) of the  
 “ Salick Dominions; the Crown of such a King-  
 “ dom, whether by Virtue of the *Salick Law*, or a  
 “ more ancient Custom, cannot be hereditary  
 “ to any other than the Male Issue alone of the  
 “ House Reigning, as the Practice hath been  
 “ for near Thirteen Hundred Years.

'Tis very much to be doubted, whether this  
 Position of M. de Vertot, That the Peers and High  
 Barons, in the time of St. *Lewis*, had a Right  
 of restraining the Alienation of any Province from  
 the Crown of *France*, will be generally relish'd.  
 For if they were then possess'd of such a Right,  
 they ought to have it still; at least, it does  
 not appear why, or by what means they lost it.  
 The Consequences of this Proposition are so ea-  
 sily perceived, that they need no Explanation,  
 and

and 'tis pretty certain, it would not be universally liked in *France*. 'Tis true, *Francis* the First, to be rid of the Treaties of *Madrid* and *Cambray*, pretended he had no Power to conclude them, by reason of this Argument advanced in Parliament, by the Advocate-General † *James Cappel*, that the Provinces of the Crown, being unalienable, he had not the Power of yielding the Sovereignty of *Flanders* and *Artois* to *Charles* the Fifth. Nevertheless, if when that Prince had Two Sons living; he had taken it into his head to divide his Dominions between them, and make two distinct Kingdoms, no doubt, he would have pretended the same Right his Predecessors so often put in practice in the First and Second Line. But whatever the Power of the Peers and High Barons might be in *Lewis's* time in this respect, there was no occasion to exert it in the Dispute between him and *Henry III.* For the matter was not about disuniting any Province from the Crown of *France*; but what was very different, restoring to the King of *England* such Provinces as by Right belonged to him, as Fiefs of that Crown. *St. Lewis* knew this in his own Heart; nay, he made no scruple to confess it; and what is more, order'd those Provinces to be restored, as I have shewn a little before.

## S 2

The

† Father of *Lewis*, Professor of Divinity at *Sedan*, and by *James* his Elder Son, who was \* Counsellor in the Parliament of *Rheims*, Grandfather to *James* and *Lewis*, Professors of Divinity, the First at *Sedan*, and the Other at *Saumur*.

\* Counsellors in the Parliaments of *France* are not Lawyers, as in *England*; they set there as Judges. Those Sovereign Courts are composed of Presidents and Counsellors.

The chief Observation I would make upon *M. de Vertot's* last Paragraph, is, that from it, as well as the whole Dissertation, there results two things. First, That every Kingdom has a Right to limit the Succession of the Crown, in such manner as shall be thought proper. *France* has confined it to the Male Issue only; *Portugal* admits both Sexes; but excludes such Princes of the Blood as are not born in the Kingdom, and such Princesses as \* marry in a Foreign Countrey. 'Tis in pursuit of this Principle that *Portugal* has shaken off the Yoke of the Kings of *Spain*, descended from *Isabella* of *Portugal*, Mother of *Philip* the Second, and set the House of *Bragança* upon the Throne, which enjoy it at this day. This Right, exercised by the Kingdoms of *France* and *Portugal*, as they thought best, ought to be common to all Nations; every one of them may make such Limitations as they judge most for their Advantage.

The second thing that results from the last Paragraph, and indeed, from the whole Dissertation, is, That a Crown does not cease to be Hereditary, notwithstanding the Limitations concerning it, may exclude those, who by natural Order of Blood would have had the first Claim, were it not for those Limitations. Thus the Crown of *France* is Hereditary

\* This is called the Law of *Lamego*; because it was enacted in an Assembly of the States held there in the Year 1143. *Du Verdier* recites it in his History of *Spain*, T. 2. P. 387. *Sic ista Lex in sempiternum, quod prima filia Regis accipiat maritum de Portugalle, ut non veniat Regnum ad extraneos, & si casaverit cum Principe extraneo, non sit Regina, quia nunquam volumus nostrum Regnum ire fore de Portugallibus, qui sua fortitudine Reges fecerunt sine adiutorio alieno, per suam fortitudinem, & cum suo sanguine.*

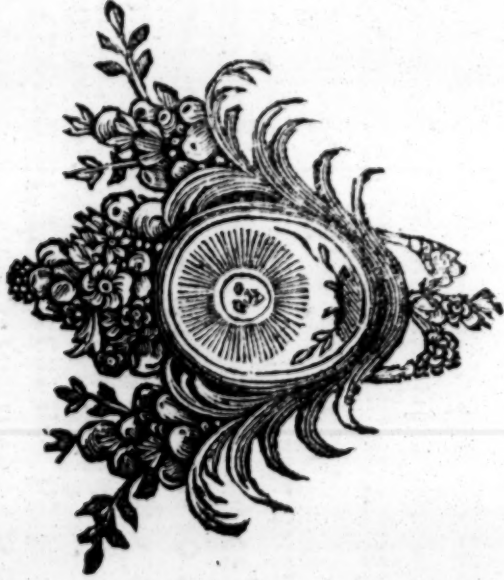


hereditary, altho' the Princeſſes who might be next of kin, are excluded from it on account of their Sex. Thus the Crown of *Portugal* is Hereditary, altho' the Princeſſes who might be next of kin, loſe their Right when they marry in a Foreign Countrey, &c. The Crown of *France* then is no leſs Hereditary, ſince the Limitations made concerning it at *Utrecht*, than it was before. So likewiſe the Crown of *Great Britain* is no leſs Hereditary ſince the Limitations concerning it, than it was before. The Crown of *France*, ſays *M. de Vertot*, cannot be Hereditary, but to the Male Iſſue alone of the Houſe upon the Throne. By the ſame Reason, we muſt ſay, That the Crown of *Portugal* cannot be Hereditary to any, but ſuch Princes as are born, and ſuch Princeſſes as are married within the Kingdom; That the Crown of *France* cannot be Hereditary to any but the Princes to whom it is limited by the Treaty of *Utrecht*; That the Crown of *Great Britain* cannot be Hereditary to any, but the Princes and Princeſſes declared capable of the Succeſſion, by Acts of Parliament made ſince the Reign of King *James II.*

Thus I end theſe Remarks; in which, tho' I have been as exact as was poſſible, it may be, I have fallen into the ſame Miſtakes that I have obſerved in others, ſo frequent and common are they. "One muſt not always ſanſie (ſays the Author of the *Method for reading Hiſtory*, Tom. I. p. 381.) "a Critick has always better ſucceeded than the Author he writes againſt; he is often guilty of Faults, whiſt he reflects upon " thoſe of others." The more I have ſhewn that ſome of the moſt celebrated and valuable Writers have miſtaken; ſo much the more, and the

134 *M. de VERTOT's Dissertation, &c.*  
the rather ought I to stand in fear of the like  
Reproach ; I, who am so far from having those  
rare Endowments, that have gain'd them a great  
and glorious Reputation. If I have happen'd to  
mistake, I shall be always ready to own it, and  
by a solemn Retraction, repair the Wrong I  
may have done any Person, of what Nation or  
Religion soever he be.

*F I N I S.*





## ERRATA.

PAGE 15. in the Note, Line 2. for *Brother-in-Law*  
read *Son-in-Law* ; p. 85. l. 2. r. *Sexagies* ; p. 91. l. 18.  
for *Vertot on the contrary*, r. *Vertot*. On the contrary, ;  
p. 92. l. 11, 12. r. *Daughter of Lewis* ; p. 97. l. 2. for  
*them* r. *this* ; l. ult. r. *the Three French*.





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